



Appeal Decision

Hearing Held on 16 July 2024

Site visit made on 15 July 2024

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal Ref: APP/C1950/W/23/3331454

**Emmanuels Farm, Great North Road, Welwyn Garden City, Hertfordshire
AL8 7TA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Millen Homes against Welwyn Hatfield Borough Council.
 - The application Ref 6/2022/0820/OUTLINE, is dated 1 April 2022.
 - The development proposed is described as '*Outline Planning Application for a residential development of up to 20 affordable units, on land at Emmanuel's Farm, Great North Road, Stanborough, AL9 7TA. Access, layout and scale are for approval; landscaping and appearance are reserved matters.*'
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Decision

1. The appeal is dismissed.

Application for costs

2. Before the Hearing an application for costs was made by Millen Homes against Welwyn Hatfield Borough Council. This application is the subject of a separate Decision.

Procedural Matters and Background

3. The Council failed to determine the application within the normal time period. The Appellant exercised their right to appeal the non-determination of their application. The Appellant submitted an Appeal Statement of Case to address what issues may require further consideration at appeal. The Council submitted a list of 10 main issues they consider required consideration.
4. I set out in a pre-hearing note issued some five or so weeks before the Hearing the six main issues I saw in this case, and provided some brief reasoning as to why I considered some of the main issues suggested by the Council are not included within my identified main issues.
5. The main issues in this case are based upon the evidence before me; this includes the evidence given at the Hearing. At the opening of Hearing I informed the main parties that the impact of the proposal on the living conditions of future occupiers in respect of noise was also a main issue. No concerns were raised by the main parties in terms of addressing this issue at the Hearing.

6. At the Hearing I informed the attendees (including the main parties) that I had viewed the appeal site the previous day from the public realm in order to understand both the site and its context. Neither main party requested that I re-visit the site with them in attendance at either the start or the end of the Hearing.
7. At the start of the Hearing, although the Local Planning Authority had signed the Statement of Common Ground (SOCG), dated 5 July 2024, (which was sought as set out in the Pre-Hearing Note), the Appellant had not. At the Hearing the Appellant confirmed that they agreed to the SOCG dated 5 July 2024. I have proceeded on this basis.

Main Issues

8. The main issues in this case are:
 - i) *Whether or not the proposal constitutes inappropriate development in the Green Belt (including consideration of openness and the purposes of Green Belt), and;*
 - ii) *The effect of the proposal on the character and appearance of the area, and;*
 - iii) *Whether or not the proposal maintains, protects, conserves and enhance biodiversity, and;*
 - iv) *Whether or not the housing tenure and size mix proposed would comply with Policy SP7, and;*
 - v) *The effect of the proposal on the living conditions of future occupiers, and;*
 - vi) *Whether the proposal makes adequate provision for infrastructure, and;*
 - vii) *Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, as to amount to the very special circumstances required to justify the development.*

Reasons

Whether inappropriate development

9. The main parties agree that the appeal site is located within the Green Belt. In the absence of any contrary evidence I see no reason to disagree. Both national and local planning policy set out that the construction of new buildings are inappropriate in the Green Belt unless subject to an exception or certain criteria are met. In this case, the main parties do not consider that the criteria is met except that relating to limited infilling in villages. I see no reason to disagree, and have focussed my attention on this criterion.
10. Neither main party disputes whether or not the appeal site is located within a village. Furthermore, the local plan does not appear to mark specific boundaries around settlements. As such, the decision-maker needs to be informed by the facts on the ground. The Appellant considers that the proposal lies within the wider settlement of Stanborough. With little evidence to the contrary I see no reason to disagree.

11. In terms of 'limited' I note that the proposal seeks the erection of a single building with a footprint able to accommodate up to 20 residential units, together with a long drive off the highway 'Great North Road' to provide access, and up to 26 parking spaces. The Framework does not define 'limited infilling'. Policy SADM34 of the *Welwyn Hatfield Borough Council Local Plan 2016-2036*, adopted October 2023, (herein WHLP) defines this as small scale and developments of no more than four dwellings (net).
12. Given the proposal in this case would significantly exceed four dwellings in numeric terms, the proposal fails to adhere to this definition of 'limited'. I note that at the Hearing the Appellant¹ indicated that the overall footprint proposed would not be dissimilar to that of four individual dwellinghouses. However, this does not take into account the 26 parking spaces and access into the site. There was also little evidence before the Hearing that a footprint for four dwellinghouses would have a similar footprint to the shown in the proposed layout. The cumulative effect of 20 dwellings set over three floors together with the proposed parking and access would not represent a limited development as expressed in Policy SADM 34.
13. With regard to infill, the Appellant indicated that they considered the site was landlocked one with development on three sides (including the A1(M)). However, as identified in Policy SADM 34, limited infill means 'within a continuous built up frontage'. From my site inspection, and also looking at the submitted site layout plan, it is clear that there is a noticeable and significant open gap between Stanborough House and the terrace of dwellings which face onto the B197 Highway. Indeed, when walking along the part of the highway 'Great North Road' to the west of the appeal site most of the view is dominated by a continuous open frontage formed of grass verges and smallish trees rather than a continuous built up frontage.
14. Taking all these factors into the round, I do not find that the proposal would accord with the criterion of limited infilling in village. Whilst it could be considered to be located within a village (in the form of Stanborough) it would not constitute limited infilling. As such, and as a proposed new building in the Green Belt, it should be considered as inappropriate development within the Green Belt.
15. The Appellant has drawn my attention to two nearby sites for which permission has been granted – one located on the western side of Great North Road and another on the northern side of the B197. Whilst I have not been provided with the full details of these, I heard at the Hearing that the site on the northern side of the B197 was previously a public house. Therefore that will likely have benefitted from the exception as previously developed land (PDL). With regard to the site on the western side of Great North Road, this clearly is a case of development between to closely sited existing dwellings which benefitted from the criteria sought in this case of limited infilling in villages. However, both of these examples do not provide justification for the proposal scheme which, as I have considered above, does not benefit from either being PDL or limited infilling in a village.
16. In terms of openness, the essential characteristics of Green Belts are their openness and their permanence. Openness typically has a spatial and a visual component. In this case, the appeal site is mostly an area of open land with

¹ The Appellant was represented by an agent; I use the terms Appellant / Agent interchangeably.

grass and trees – albeit much of this is not immediately visible from the public realm due to the existing tree lined boundaries and topography. The proposed development would nonetheless drastically and dramatically erode the openness of the Green Belt. It would do this spatially and visually through the erection of a two storey building² together with large areas of parking and a long access road into the site.

17. It is also unclear as to what measures would be required to ensure that the users of any external amenity areas could be protected from noise and disturbance from the A1(M). At the Hearing it was discussed that it is likely that the external amenity area shown on the submitted Site Layout drawing would likely require some form of acoustic fencing or barrier in order to reduce the potential impact from road noise on the A1(M). No such details have been submitted here. However it is logical to assume that any such mitigation measures would further erode the openness of the Green Belt in order to provide an acceptable noise level in outside amenity areas.
18. Moreover, through the loss of countryside arising in this case, the proposal would fail to align with one of the five purposes of Green Belt as in Paragraph 143 of the Framework. Paragraph 143 c) sets out that one of the five purposes that Green Belt serves is to '*assist in safeguarding the countryside from encroachment*'. The proposal in this case would fail to assist in safeguarding the countryside from encroachment as the appeal site, whilst located within the village of Stanborough for planning policy purposes, has the characteristics of countryside with an absence of built development on a majority of the site.
19. I note the Appellant's point in relation to the *Welwyn Hatfield Green Belt Review 2013* undertaken by Sinclair Knight Merz³. I heard at the Hearing that the most up to date review of the Green Belt in this locality, and which informed the recently adopted Local Plan, is the August 2018 iteration. My attention was drawn to the fact that the 2013 Review stated that the part of the Green Belt which includes the appeal site '*makes a limited or no contribution towards checking urban sprawl or preserving setting*'⁴. This appears to allude to purposes a) and d) of the five set out in Framework Paragraph 143. Nevertheless, the fact remains that the proposal would fail the purpose of safeguarding the countryside from encroachment. As such, I do not find that this point justifies or addresses the failure to serve at least one of the purposes the that Green Belt serves.
20. I therefore find, in this case, that the proposal is inappropriate development and would reduce openness of the Green Belt. In doing so, there would be conflict with Policy SADM 34 of the WHLP, and also those of the Framework.

Effect on character and appearance

21. The local street scene is characterised by large dwellings set back a short distance from the highway, with their frontages typically facing the highway. The proposed development would introduce a large building with associated parking and access drive into what is currently an open field. As such the layout of the proposed development would appear as an odd addition against

² Whilst Appearance is a Reserved Matter, illustrative plans have been submitted showing how 20 units could be accommodated within a building of two storeys with living accommodation in the roof.

³ See Appellant's Statement of Case, Paragraph 2.17

⁴ Quoted in Appellant's Statement of Case, Paragraph 2.20

the prevailing pattern of development locally. This would not only be noticeable in terms of the existing development on the western edge of Great North Road and the B197, but also in terms of the character of the wider settlement of Stanborough along Brocket Road (the B653) and Great North Road (B197, which is the element north of the roundabout).

22. I acknowledge that both landscaping and appearance are Reserved Matters, for consideration at a later stage if permission were forthcoming. However, layout, access and scale are for determination at this stage. Within these details, it is clear that the proposal would introduce an urbanising residential feature into what is an open and rural part of the settlement and with an at odds layout in terms of the existing character of the settlement.
23. I therefore find that the proposal would introduce an urbanising appearing feature into the countryside which is at odds with the prevailing character of the area. As such, the proposal would have an adverse effect on the character and appearance⁵ of the area. Accordingly, it would conflict with Policy SP 9 of the LP, which, amongst other aims, seek to ensure that proposals have been informed by an analysis of the site's character and context so that they relate well to their surroundings and local distinctiveness.
24. My attention has also been drawn on design matters to Policies SP 10 and SP 12 of the WHLP by Hatfield Town Council. However, these policies appear to focus on Sustainable Design and Construction and Green Infrastructure. As such I find them of limited relevance in respect of the identified harm to character and appearance.

Biodiversity

25. The requirement for mandatory Biodiversity Net Gain (BNG) as not required in this case is common ground between the main parties. This is because the application was submitted before the enactment of the relevant parts of legislation in relation to BNG.
26. Nonetheless, Policy SADM 16 of the WHLP sets out that: *'Proposals will be expected to maintain, protect, conserve and enhance biodiversity, the structure and function of ecological networks and the ecological status of water bodies. All developments that are not otherwise exempt will be required to deliver a measurable biodiversity net gain of at least 10%.'*
27. I heard at the Hearing that it was common ground between the main parties that biodiversity gain (as opposed to mandatory BNG) was a local plan policy requirement in this instance. To that end, the Appellant has submitted a legal agreement under s106 TCPA to secure various mitigation measures to achieve at least 10% biodiversity gain. It was pointed out by the Council's Ecologist that without a baseline metric having been submitted, it would be difficult to ascertain the feasibility of the 10% biodiversity gain sought. At the same time, there was discussion between the main parties in terms of how either planning conditions and/or legal agreement could be used to secure biodiversity gains that would accord with Policy SADM 16.
28. Taken in the round, I am content, on the basis of the evidence before the Hearing, that there is a reasonable prospect of the 'at least' 10% biodiversity

⁵ Insofar as appearance is defined as what something look likes in its ordinary sense, rather than as Appearance as defined Reserved Matter.

gain (secured by legal agreement) being delivered in accordance with adopted development plan policy.

29. At the Hearing it was also discussed in terms of how other ecological enhancement measures, such as bird boxes, and protection measures, such as a badger survey⁶ and reptile walkovers, could reasonably be secured by condition as mitigation and /or a 'precautionary approach'. Such measures are typical of developments and typically accord with Framework Paragraph 56 in terms of the use of planning conditions and being necessary and reasonable.
30. I therefore find that the proposal would maintain, protect, conserve and enhance biodiversity. As such, it would accord with Policy SADM 16 of the WHLP, the aims of which are cited above. It would also accord with Paragraph 180 of the Framework, which sets out that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

Housing tenure and mix

31. The proposed development is made in outline for permission for up to 20 affordable units. At the application stage, it was unclear as to the breakdown of the type and tenure of dwellings proposed. Indeed, it is only in the legal agreement⁷ under s106 TCPA, that we are able to ascertain the breakdown of the proposed dwellings and their tenure which is given under Schedule 6 as:

20 (100%) x affordable housing units to be provided on site comprising:

Social rented units (policy requirement: 51% of 35%);

2 x 1 bed social rented units;

2 x 2 bed social rented units;

Intermediate (remaining units):

4 x 1 bed affordable rented units;

4 x 2 bed affordable rented units;

1 x 3 bed affordable rented units;

3 x 1 bed shared ownership/shared equity units;

4 x 2 bed shared ownership/shared equity units;

32. Policy SP 7 of the WHLP sets out that for sites of 10 new dwellings or a site of 0.5ha or more in the 'excluded villages' category, the on-site delivery target is 35%. In this case, the proposal would deliver 100% affordable housing, and therefore clearly accords with this element of the policy.
33. In terms of tenure and mix, the Policy sets out that the onus is on the proposal to demonstrate how the mix of tenure, type and size of housing proposed on

⁶ In order to check that no badger setts or badgers had moved into or near to the site in the phase before site clearance and construction commencement.

⁷ Dated 19 July 2024.

sites has had regard to the Council's latest evidence of housing need and market demand and contribute towards meeting the varied needs of different households. I note that the Council set out that it felt that the mix proposed, heavily focussed on 1- and 2-bedroomed units, was not demonstrated to meeting the needs of different households.

34. However, at the Hearing, the Local Planning Authority confirmed its Housing Delivery Test (HDT) figure being 57% and provided an update on its most recent affordable housing data⁸. According to this, the 2017 SHMA update indicated that if the Council achieved delivery of 793 homes per year, around 160 of these would likely be affordable (assuming policy compliant levels of delivery). Between 2016 and 2023, around 571 to 1,159 affordable dwellings were provided in the Welwyn Hatfield area. This equates to roughly 81 to 165 affordable dwellings per annum over a seven year period.
35. Clearly, the Council is in a better planning policy position to support delivery of larger residential developments – such as the nearby *SDS5 (HAT1) North West of Hatfield* site identified in the Appellant's Statement of Case, having adopted its local plan back in late 2023. In the main, given the quantum of development, these larger allocated sites will likely deliver the bulk of the affordable housing and overall housing need within the district.
36. Nonetheless, it is also clear that the Council's delivery of affordable housing has suffered whilst awaiting the adoption of its local plan and the delivery of these larger sites. I asked at the Hearing for the Council to provide information in respect of the 'demand' side of affordable housing need, in this case informed by the Council's Housing Need Register. This indicated that within the district there was in July 2023 demand or need for 3187 affordable housing dwellings, broken down for the smaller end of the scale as 1817x 1bed, 725x 2bed, and 493x 3bed dwellings. The situation at the time of the Hearing in July 2024 was a demand or need for 3696 affordable housing dwellings, broken down as 2229x 1bed, 724x 2bed and 582x 3bed.
37. What is clear is that not only has the quantum of need increased by around 600 people or families requiring affordable housing, by also in terms of the categories at the smaller end of the dwelling size. For example, the need for 1bed affordable housing units increasing by roughly 400 in one year.
38. What the pulling together of these various threads together provide is a picture whereby there is a growing trend towards the need for affordable housing increasing in the district in the last two years, against a backdrop of an under delivery of both housing overall and also in terms of affordable housing. I acknowledge that it will take some time for the allocated sites, which will fuel the Council's ambitions to provide housing for residents, to be delivered. But once this occurs, that will likely provide the bulk of market and affordable housing need in the district. However, that does not prevent smaller windfall schemes from coming forward, nor reduce their importance when they make a positive contribution to the supply of much needed affordable housing.
39. The proposed development would provide up to 20 affordable housing dwellings, with 19 of these proposed to be either 1bed or 2bed dwellings. This is precisely the range which has seen a sizeable increase in need (based on the Housing Need Register) in the past two years. I note the Council's point that

⁸ Hearing Document 1

there should be a robust demonstration that the proposal is required to help address an identified need of the local community, and in their view this should equate to a local need based on a more specifically focussed geographical area. For example, this could be an assessment on the need for the area of Stanborough. However, the Housing Need Register data provided at the Hearing did not provide such fine grain detail of where geographically the need was within the wider district.

40. What the evidence before the appeal does show is that there is a current and pressing need for affordable housing within the district, and this is a need which is of the type of affordable housing which is proposed. In light of this, and the totality of the evidence before me, I find that the proposal would accord with Policy SP 7 of the WHLP, which, amongst other aims, seeks a choice of homes and help create sustainable, inclusive and mixed communities, and that provision will be made for a range of housing to support the needs and requirements of different households.

Living conditions

41. Hatfield Town Council raised the matter of the potential noise impact on future occupiers at the application and appeal stages. Further oral representations were made on this matter at the Hearing⁹. This led to discussion at the Hearing between the main parties following questions from myself. I note that within the agreed SOCG, at Paragraph 8.15, that it is common ground between the main parties that there is no objection on noise grounds, subject to the suggested conditions and submission of reserved matters.
42. However, at the Hearing, it became apparent that the plans showing the internal layout of the proposed building was not only incorrectly shown, but also that it was only illustrative. Put another way; not the final internal layout but rather demonstrating one way in which a layout could be achieved to secure 20 dwellings within the proposed building.
43. This is an important point, as the Town Council pointed out that there would be openings within the façade facing the A1(M) motorway. As acknowledged within the Appellant's *Noise Assessment January 2022* the proposed building would be ventilated through mechanical ventilation, with windows openable for purge ventilation (for example venting after burnt toast). However, it is clear from the illustrative internal layout plans that the on the ground floor, first floor and second floor on the longest elevation (facing the A1(M)) that some of these apartments would either be solely reliant on the windows facing the motorway or have a majority of their openings facing the motorway. In reality, there is a strong likelihood that future occupiers will want to open windows in order to provide ventilation. In doing so, this would lead to noise levels in the region of 69 to 78 decibels, as shown on *Figure 2: Daytime Noise Levels [dB LAeq, 16 hour], Noise Assessment January 2022*.
44. Whilst I note the summary of the Appellant's Noise Assessment, what the above figures mean in practice is that even with good acoustic design – which I have been provided with little detail of – future occupiers will be subject to medium to high noise levels when opening windows facing the A1(M). These are likely to be the main or even the only openings serving some of the proposed units. Whilst acknowledging the fact that mechanical ventilation is

⁹ See Hearing Document 3

likely to be provided, realistically future occupiers will not solely rely on this to provide cooling and heating of apartments and instead seek to open windows outside of 'purge events'; for example during hot days or when drying washing indoors.

45. I also heard at the Hearing that the areas of the shared amenity space (on the western edge of the proposed building as shown on the layout drawing) would be subject to noise in excess of 55dB as shown on *Figure 2: Daytime Noise Levels [dB LAeq, 16 hour], Noise Assessment January 2022*. I heard that it is highly likely, that this would require the use of acoustic fencing or boundary treatment in order to mitigate the effect of noise on occupiers using this amenity area. No details of this have been submitted.
46. Whilst I note that landscaping is a matter reserved for consideration at a later stage, given the site's location within the Green Belt, the need for some form of mitigation to reduce noise levels in the external amenity area is a detail which is necessary at this stage in order to assess the proposals impact on openness. Such details would also allow the decision-maker to assess whether noise impacts on external amenity areas for future residents are suitably mitigated.
47. When taken in the round, I find that the proposal would have an adverse impact on the living conditions of future occupiers in relation to noise impacts. This would arise either from the noise levels inside the proposed apartments when windows and other openings are open for ventilation or other daily activities such as drying washing or cooling a room on hot days, or noise levels within the proposed external amenity area.
48. Accordingly, the proposal would be contrary to WHLP Policy SADM 11, which amongst other aims, seeks to ensure that developments create and protect a good standard of amenity for buildings and external open space; that dwellings are dual aspect, wherever feasible, in order to enable passive ventilation and avoid the need for mechanical ventilation, subject to any noise and air pollution mitigation measures that are required to make the proposal; and that acceptable external private or communal garden space, in its extent and design, meets the reasonable needs of its users.
49. It would also be contrary to the Policies of the Framework, including those set out in Paragraphs 123, 180, and 191 which include preventing new development from being put at unacceptable risk from or being adversely affected by unacceptable levels of noise pollution.

Provision of infrastructure

50. Policy SP 13 of the WHLP sets out that developers will be required to contribute to the reasonable costs of enhancing existing infrastructure or providing new physical, social and green infrastructure, required as a result of their proposals, through either financial contributions (including planning obligations or the Community Infrastructure Levy (CIL)), or by direct provision of such infrastructure on-site within the development.
51. A signed and dated (19 July 2024) Planning Obligation by deed of undertaking under s106 of the TCPA securing planning obligations has been submitted. Put simply, this would secure monies or land for; biodiversity gain, indoor sports facilities, outdoor sports facilities, public open space, play facilities, waste and recycling, sustainable transport and highway accessibility, primary education,

- secondary education, special educational needs and disabilities, youth service, library service, waste service recycling centre, fire and rescue service, waste service transfer station and monitoring fees.
52. It would also secure affordable housing, in the tenure and mix set out earlier in this decision. Policy SP 7 of the WHLP seeks this to a level of at least 35%. The proposal here would be an over policy-compliant level of affordable housing of 100%.
53. Justification for the above is provided within the Local Planning Authority's evidence before the Hearing (including the Community Infrastructure Levy (CIL) Compliance Statement by Welwyn Hatfield Borough Council dated 7 February 2024 and the information provided by Hertfordshire County Council. These include setting out why the contributions sought are considered necessary, directly related to the development, and are fairly and reasonably related in scale and kind to the development. Neither main party takes issue with the monies sought or what they would be provided for.
54. I find, on the basis of the evidence before me, that all of the contributions sought would meet the tests set out in Paragraph 57 of the Framework and as set out in Regulation 122(2) of the *Community Infrastructure Levy Regulations 2010*. They should therefore be taken into account in the decision were the proposal found to be acceptable in other respects.
55. In particular, the provision of 100% affordable homes on the appeal site should be afforded very significant weight in any planning balance. This is especially pertinent here, as the Council's figures put before the Hearing (and as agreed in the SOCG) suggest that the council currently require over 1000 affordable homes and are not able to currently meet this need. I also note that there are over 3,696 applicants registered or seeking affordable dwellings within this borough under the Council's Housing Need Register.
56. It was brought to my attention before the Hearing that there were some typographical errors within the February 2024 submitted unilateral undertaking under s106 TCPA. The Local Planning Authority also raised some concerns over part of the appeal site that is understood to be owned by National Highways (NH). A timetable was agreed at the Hearing for the correction of such errors and any final comments on the submitted unilateral undertaking. This led to the submission of the dated 19 July 2024 legal agreement noted above.
57. The Council's legal advisers provided final comments on this legal agreement. This re-iterated their earlier concerns in terms of access over NH land and whether this would result in the unilateral undertaking being deficient and potentially not able to be enforced 'fully'. I share some of these concerns, and that is partly why the matter of any legal agreement being submitted was raised in the Pre-Hearing Note and Agenda document sent to the parties in early June 2024, and the timetable was agreed at the Hearing on the matter of the s106 agreement.
58. I share some of these misgivings on this issue, in terms of the potential legal effect such a legal agreement would have were permission forthcoming in this case. Despite this, to be fair to the Appellant, I have proceeded on the basis in terms of the decision-making process, of the weight that would be attributed to this issue as if the legal agreement were resolved satisfactorily. However, as is clear when this decision is read as a whole, given that the appeal is dismissed

even when affording 'very significant' weight to the provision of affordable housing, it would be inefficient to expend more resources trying to rectify this particular matter.

Other Matters

59. I acknowledge that the County Council's Senior Flood Officer attended the Hearing in order to explain further the rationale for comments provided. In particular, there was concern over the lack of infiltration rates and other data. This information would assist local water service providers in ensuring that there was capacity within the local network for surface water run off and /or foul water capacity. However, as I have found the proposal unacceptable on other grounds - which I consider and conclude on below - it is not necessary for me to consider this matter further in this instance.

Other considerations

60. I have found the proposal would constitute inappropriate development within the Green Belt. Paragraph 152 of the Framework makes it clear that substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
61. The Appellant confirmed at the Hearing that the very special circumstances provide justification for it to be permitted in Green Belt terms relate solely to the provision of 100% affordable housing on the site in 20 apartments. This is in an area where there is both an under supply of such dwellings and an increasing level of demand as expressed in the Housing Need Register. Accordingly, I give this factor very significant weight in favour of the proposal.
62. Although not specifically cited as amounting to other considerations weighing in favour of the proposal by the Appellant, there are further matters which weigh in favour of the proposal. These include its location and whether this is sustainable and biodiversity gains.
63. In terms of location, I note the Council's points about the sites position relative to day to day services. However, there are bus stops in reasonably close proximity to the site, and the site itself is located close to the A1(M) and local services provided in Welwyn Garden City and Hatfield. I also note that the site is located a short distance from the SDS5 (HAT1) North West of Hatfield allocated site and existing dwellings located in Stanborough. It would, therefore, be odd if those existing and planned dwellings were not served by local day-to-day services. I therefore afford this factor modest weight.
64. With regard to biodiversity gain, as noted elsewhere in this decision, the proposal has the potential to provide a local plan policy compliant provision of at least 10% biodiversity gain. In light of the national decline in nature (as set out in the 'State of Nature' report) and also in terms of the overall trend towards mandatory Biodiversity Net Gain, I afford this factor modest weight. This is because, at this stage, it is unclear what the baseline metric is on the site, and the exact level of biodiversity gain to be provided (besides it being the policy compliant at least 10%).

65. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Planning Balance and Conclusion

66. The Council's Housing Delivery Test indicates that the delivery of housing was around 57% and therefore below the 75% housing requirement threshold set out in Footnote 8 of the Framework. As such, the presumption in favour of sustainable development, as set out in Paragraph 11 of the Framework, should apply. For decision-making this means that where the policies which are most important for determining the application are out of date – in this case relating to housing supply policies – granting permission unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development proposed. One such area of Policies are those relating to Green Belt.
67. Paragraph 152 of the Framework requires decision-makers to ensure that substantial weight is given to any harm to the Green Belt. In this case the proposal is inappropriate development and would reduce openness of the Green Belt.
68. Other considerations weighing in favour of the development must clearly outweigh this harm. Principal among these are the benefits of providing affordable housing in an area where there is both an under supply and increasing demand. Whilst I acknowledge these, and all other considerations put forward by the appellant, it is clear that all development in the Green Belt is subject to stringent planning policy tests which I have applied here.
69. In light of this, I conclude that those considerations put forward which weigh in favour of the proposal fail to clearly outweigh the substantial harm by reason of inappropriateness. The very special circumstances needed to justify the proposal do not therefore arise. The proposal conflicts with the Policies of the WHLP and of the Framework, the aims of which I have aforesaid. These provide clear reason for refusing the development proposed.
70. Whilst I have not found the proposal would result in harm to biodiversity this does not provide justification for overcoming the harm identified in respect of the Green Belt.
71. I have also found that the proposal would result in harm to the character and appearance of the area and to the living conditions of future occupiers in terms of noise impacts. Taken in the round, I find that the proposal would not accord with the adopted development plan for the area when considered as a whole. Furthermore, material considerations do not indicate a decision otherwise than in accordance with it. There would also be conflict with Policies contained in the Framework. Lastly, the presumption in favour of sustainable development, as set out in Paragraph 11 of the Framework does not indicate that permission should be granted in this instance.
72. Accordingly, I conclude that the appeal should be dismissed.

C Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Poole *Chartered Town Planner, on behalf of Millen Homes*

FOR THE LOCAL PLANNING AUTHORITY:

Ganesh Gnanamoorthy	<i>Head of Development Management (WHBC)</i>
Emily Stainer	<i>Principal Development Management Officer (WHBC)</i>
Louise Sahlke	<i>Senior Development Management Officer (WHBC)</i>
David Uncle	<i>Senior Flood Officer (Herts County Council)</i>
Martin Hicks	<i>Ecologist (Herts County Council)</i>

INTERESTED PERSONS:

Councillor Mick Wise	<i>Hatfield Town Council</i>
Jane Anderson	<i>Civic Manager, Hatfield Town Council</i>

DOCUMENTS

- 1 Affordable housing data, provided by LPA
- 2 Plan showing potential National Highways land provided by LPA
- 3 Written objection as read by Cllr Mick Wise, Hatfield Town Council at the Hearing