



Appeal Decision

Site visit made on 5 August 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/J1915/W/23/3331655

Land North East of Lower Road, Great Amwell

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Margaret Nolan against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0690/FUL.
 - The development proposed is described as undertake landscaping and building works to a vacant plot of land to create equestrian facilities. The proposals will include a new
 - hardstanding, stables, riding ring, and grazing land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision, a revised National Planning Policy Framework (the Framework) was published. The main parties have been given the opportunity to comment on the updates to the Framework during the appeal process and I have taken these into consideration in my decision.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect upon the openness of the Green Belt;
 - the effect of the development upon the character and appearance of the area;
 - the effect of the proposed development on the Public Right of Way (PROW);
 - whether any other matters weigh significantly either for or against the development; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether Inappropriate Development

4. Policy GBR1 of the East Herts District Plan (DP) states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. Paragraph 154 of the Framework indicates that the construction of new buildings should be regarded as inappropriate in the Green Belt except in a number of clearly defined circumstances.
5. Relevant to this appeal is the exception at subparagraph b) of paragraph 154. This relates to the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries, and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Also relevant to the appeal is Paragraph 155 subparagraph e) that states the material changes in the use of land (such as changes of use for outdoor sport or recreation) would not be inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
6. The appellant states that recreational equestrian uses are not inappropriate in the Green Belt. Nonetheless, they are required to preserve the openness of the Green Belt and not conflict with the purposes of including land within it. Therefore, whether the proposal would be inappropriate development is contingent on whether it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
7. Paragraph 142 of the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness of the Green Belt has a spatial aspect as well as a visual aspect. Both aspects therefore need to be considered.
8. The proposed development would largely clear the site for grazing and introduce a modest-sized stable building, riding ring, front gate, and hardstanding area with an access track into a site that is currently devoid of any built development. In spatial terms, the footprint and bulk would inevitably have an impact on the openness of the Green Belt.
9. The stable building would be located to the rear of the proposed access track behind a new entrance gate. Although a good level of screening would be provided by the landscaping on the boundaries, which would help to screen views, it would stand alone where its mass, height and volume would be visible from public vantage points on the adjacent lane. As such, the increase in built form, along with its positioning and the introduction of substantial access gates and hardstanding, would also result in a loss of openness in visual terms, leading to a fundamental and permanent change to the Green Belt.
10. For these reasons, the proposed development would not preserve the openness of the Green Belt in both visual and spatial terms. It would therefore comprise inappropriate development in the Green Belt. The proposed development would therefore not comply with the Framework or DP Policy GBR1.

Character and appearance

11. The appellant refers to the site forming part of the Great Amwell Ridge and Slopes landscape area, which is described as a complex semi-urban area with two settlements and combined-urban edge and rural land uses.
12. The appeal site consists of a rectangular shaped parcel of land which narrows in the middle. The appeal site is situated between a lake and a railway line to the north and northeast. Beyond the railway line lies the River Lea and open fields, which are accessible by a PROW that runs alongside the appeal site. Built form including dwellings, is located to the south and southwest. Much of the development to the south and southwest is set behind a green wedge of trees and vegetation.
13. The appeal site has a green, undeveloped appearance as it is covered in well-established trees of varying sizes and substantial vegetation. The appeal site and frequent mature trees on both sides of the lane form a break from the surrounding built form on the opposite side of the lane for users of the PROW. These trees, alongside established surrounding vegetation, including the trees subject to a Tree Preservation Order at the appeal site, contribute to the rural verdant feel of the lane on the settlement edge.
14. To accommodate the development, the appeal scheme would see the removal and cutting back of a number of trees that are protected. The development would also see large areas of vegetation removed to facilitate the proposed stables and associated infrastructure.
15. There are no category A trees to be removed from within the site. Nonetheless, the grouping of these protected trees adds to the visual amenity of the area, which transitions from the edge of the settlement to the lake and fields beyond the railway line. The limited proposed compensatory planting would not be sufficient to address the loss and reduction, particularly as it would open up much of the site as a paddock. On the basis of the evidence before me, the scheme would erode the aesthetically pleasing influence that the trees have on the area at the edge of the settlement.
16. The stable building is relatively modest in size and is to be constructed in materials not uncommon in rural locations. However, it would be seen alongside the riding ring, areas of hardstanding and large, overly domestic front gates. When taken together, these features would be visually intrusive and incongruous forms of development at odds with the undeveloped character of the site.
17. The proposed development would therefore fail to accord with DP Policies DES2, DES3, DES4, NE2, NE3 and CFLR6. These require, amongst other things, new development to be of a high standard of design that protects and conserves the character and distinctive features of the district's landscape including trees.

Public footpath

18. DP Policy CFLR3 requires new development to not adversely affect any Public Right of Way and, where possible, should incorporate measures to maintain and enhance the Rights of Way network.

19. The PROW runs along the access lane that future vehicles using the stables would also use. While it is a single track, there are passing places along the route that provide good visibility for all users. While there would likely be an increase in vehicular movements, given the scale of the scheme, these movements would be limited. In this respect, the proposed development would have no adverse effect upon the PROW.
20. Moreover, the Council have provided no substantive evidence to demonstrate the appellant does not have a private vehicle access right over the PROW. Consequently, the proposal would not have a harmful effect on the PROW and therefore comply with DP Policy CFLR3.

Other Matters

21. I have established above the proposal would conflict with DP Policy CFLR6 in so far as it relates to character and appearance. The Council's second reason for refusal also raises concerns with the need for the development including the size of the stable and the adequacy of the amount of pasture space that would be available.
22. As the building would contain two stables, it is likely that the stable would accommodate two horses. In the absence of any cogent evidence, the building's size appears to be no larger than what one would expect for a building to accommodate two horses and their associated equipment and feed.
23. With regard to recommendations for grazing land based on the guidance of the British Horse Society, both parties have referred to a shortfall of 0.1ha per horse. The shortfall would be minimal, and it is only a recommendation and in the absence of any substantive evidence to demonstrate otherwise, there would be adequate pasture to support two horses.
24. Policy CFLR6 does not explicitly state that structures on other sites must first be explored or that there is a need to identify where the horses are currently kept. There are no existing buildings on site to be reused and given that a stable is proposed, there is a need for the building on site in this location. As such, I can see no further conflict with the previously mentioned Policy CFLR6, relating to equine development in so far as it relates to criteria (a)-(g).
25. The Council's fifth reason for refusal related to biodiversity net gain (BNG) and climate change and water resource policies. The appellant states that BNG is unlikely to be achievable given the scale of the development in comparison with the site area and, therefore, states the requirement of the policy becomes disproportionate. However, insufficient evidence is before me to conclude that other feasible and proportionate alternatives have been adequately explored. As such, the appeal scheme would conflict with DP Policies NE2 and NE3 which seek to achieve a net gain in biodiversity on site.
26. In the case of DP Policies on climate change, CC1, CC2 and water efficiency Policy WAT4, I find that these matters could be dealt with by appropriately worded conditions. This is because of the limited scale and nature of the development proposed.
27. In regard to these other matters, compliance with some DP Policies is a neutral matter weighing neither for nor against the development. However, the failure to provide BNG would result in significant harm to biodiversity and weighs against the proposal.

Other Considerations

28. There is no identified harm with respect to the amenities of neighbouring properties, harm to the PROW, or climate change, which carry no weight in the overall Green Belt balance.
29. The proposal would provide benefits for the users in terms of health and recreation through the day-to-day management of caring for the horses. The evidence before me indicates that these would be purely private benefits. Planning is concerned with land use in the public interest and, as such, this holds limited weight in this context.

Conclusion

30. The proposed development would be inappropriate development in the Green Belt and would harm openness. As such, the Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also be harmful to the character and appearance of the area and fail to provide BNG on site. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
31. Given the substantial weight to be given to Green Belt harm combined with the other identified harm relative to the limited benefits of the proposed scheme, the harm is not clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist.
32. For the reasons set out above, I conclude that the appeal is dismissed.

A Hickey

INSPECTOR