

Appeal Decision

Site visit made on 8 May 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2024

Appeal Ref: APP/P1940/W/23/3324209

Cottage Farm, Redhall Lane, Rickmansworth WD3 4LT

- 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 Mr Warren Hobbs, Hobbs Developments Limited against the decision of Three Rivers District Council.
 - The application Ref is 23/0336/FUL.
 - The development proposed is demolition of the existing built form and the erection of three detached dwellings, garages and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted revised proposed plans to the Council which reduced the ridge height of each house before the application was determined. However, the Council did not make their decision on these plans. I have therefore treated them as revised plans. A revised proposed site plan has been submitted as part of the appeal which removes the gated access and alters the layout of the parking spaces for Unit 3, increases the size of the service vehicle turning head and moves the bin collection point.
3. The appellant has also submitted additional evidence in the form of an updated Viability Assessment which sets out the surplus for affordable housing and a swept path analysis demonstrating a refuse vehicle can enter and turn around within the site.
4. Given the nature and extent of the proposed changes shown on the revised proposed plans, the amendments would not materially alter the proposed development to such a degree that granting it would result in a development substantially different from that previously consulted upon. Nor would the amendments deprive those who were entitled to be consulted on the application of the opportunity to make representations that they may have wanted to make, on the application as amended. The additional evidence would also not fundamentally alter the proposal. I have therefore taken the revised proposed plans and additional evidence into consideration.

5. The Council has advised that the third reason for refusal in relation to the turning space within the site can be withdrawn on account of the submission of the swept path analysis. I have no reason to reach a contrary view.
6. After the appeal was made, the Council refused a Certificate of Lawfulness for existing use (the previous lawful development certificate application)¹ which related to part of the appeal site. The appellant has had the opportunity to comment on this new evidence and I have taken their comments into consideration.
7. During the appeal the appellant submitted a completed Unilateral Undertaking. The Council has had the opportunity to comment on this.
8. In their final comments, the appellant has stated that the development is proposed to be completely self-build. However, as the planning application form indicates that the proposed units would be for market housing, I consider that this could constitute a material change to the nature of the development. I cannot be certain that no party would be prejudiced by my consideration of the development as self-build. I have therefore not taken this into consideration.
9. The government recently published a consultation on proposed reforms to the National Planning Policy Framework (the Framework). A Written Ministerial Statement (the WMS) was also published at the same time which is a material consideration. The main parties were invited to comment on the proposed Framework changes and the WMS. I have therefore taken their subsequent submissions into account in determining the appeal.

Main Issues

10. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect on openness of the Green Belt,
- whether the proposal makes appropriate provision for affordable housing; and,
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

11. The appeal site is within the Green Belt. Policy CP11 of the Core Strategy 2011 (the Core Strategy) makes clear that there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purpose of including land within it. Policy DM2 of the Development Management Policies Local Development Document 2013 (the Local Development Document)

¹ Council Ref: 23/1899/CLED

states that within the Green Belt, except in very special circumstances, approval will not be given for new buildings other than those specified in national policy and other relevant guidance.

12. Paragraph 154 of the Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt unless it falls within one of the listed exceptions. One of the exceptions listed at part g) is the limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use PDL and contribute to meeting an identified affordable housing need within the area of the local planning authority.
13. The proposal would make an off-site contribution to affordable housing. I shall return to the specifics of this later in my decision. In terms of the exceptions, the proposal would therefore have to re-use PDL and not cause substantial harm to the openness of the Green Belt.
14. The appeal site is occupied by two large barns, some smaller outbuildings, several shipping containers and hardstanding. The dispute between the main parties relates to whether the entirety of the site is PDL and can benefit from the exception under part g) of paragraph 154.
15. The Council refused the previous lawful development certificate application which related to the remainder of the site where the shipping containers are located. It is not my role in the context of this S78 planning appeal to consider the lawful use of the appeal site. Instead, my considerations are focussed on whether this part of the appeal site falls within the definition of PDL.
16. PDL is defined in Annex A of the Framework as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. Notwithstanding the Council's refusal of the previous lawful development certificate application, the shipping containers are located on the hardstanding and appear to have an association with the barns and outbuildings. In my view, the hardstanding falls within "associated fixed surface infrastructure". I therefore consider that this part of the site forms part and parcel of the PDL and the entirety of the appeal site would be classed as PDL.
17. The openness of the Green Belt has both a spatial and visual aspect. In spatial terms, the footprint of the proposed houses would be more contained than the somewhat sprawling nature of the existing built form. The figures provided by the appellant show that there would be a small reduction in volume and a moderate reduction in footprint. Notwithstanding this, the proposed houses would be considerable structures, and each would have a footprint larger than most of the existing buildings. This would result in a greater coverage of the site where the shipping containers are present.
18. Consolidating development in this way, taking up space on a part of the site where there is currently less built form, would add to the spatial effect on openness. The proposal would have a significant permanent spatial presence

whereas the shipping containers do not have the same scale and degree of permanency. The proposal would therefore represent a substantial loss of, and harm to, the openness of this part of the Green Belt in spatial terms.

19. In visual terms, the houses would be two storeys tall and would be taller and bulkier than the existing built form. Although the level of hardstanding would be decreased and a large amount of soft landscaping would be incorporated, this would be seen in the close context of the houses. The houses would be more widely visible and prominent than the existing built form because of their size and height. However, as some of the existing trees would be retained and additional landscaping is proposed, there would only be glimpses of the houses through and above trees and vegetation in some places when viewed from the road, the nearby houses and the adjacent fields.
20. The level of harm to the visual openness of the Green Belt would be localised and limited, but harm would nevertheless occur. When compared with the existing built form, the overall increase in built development on the site and the presence of three, two storey buildings would substantially reduce the spatial openness. The proposal would therefore cause substantial harm to the openness of the Green Belt. I have had regard to the Court cases cited by the appellant and the implications of these judgements. However, these arguments have not changed my reasoning here.
21. The appellant has drawn my attention to other appeal decisions for development in the Green Belt. I have not been provided with the full details of all these cases and I am not party to the evidence that was before the Inspectors. I have however considered the decisions on the details provided.
22. Regarding the land at Tanyard Farm² appeal decision, there appears to have been a lapsed consent which was a material consideration, and parts of the site would be reinstated to public open space. In the Sunny Bank Junior and Infant School³ case, the main parties agreed the appeal site was PDL. There are therefore differences between these cases and the appeal scheme.
23. In the case at Langley and Mile Nurseries⁴, the Inspector found that the harm to openness would be moderate on account of the site's location near residential and commercial development. This is different to the context of the appeal site which although it is near to two residential properties, it is predominately surrounded by open fields.
24. In the land to r/o of the Woodyard⁵ case, there was no change in the scale of the proposed house compared to the existing building, whereas in this appeal proposal, the houses are of a greater scale than the existing buildings.
25. These appeal decisions do not weigh in favour of allowing the appeal because of their differences. In any event, each proposal must be judged on its individual merits.

² 18/3200416

³ 19/3229315

⁴ APP/J1535/W/20/3259315

⁵ APP/P1940/W/22/3291193

26. I have considered the comments of the Inspectors in the case at land east of Lead Lane⁶ and the Council's comments in the Silverhill Cattery⁷ in regards to the reduction in footprint, volume and hardstanding. However, I am unable to draw any meaningful conclusions. This is because matters relating to the openness of the Green Belt are generally site-specific and require a degree of planning judgement, which is a matter for the decision-maker. Therefore, these examples have limited weight and do not alter my findings which are based on the merits of this case.
27. The Framework sets out the five purposes for including land within the Green Belt. As the appeal site is PDL, the proposal would not result in encroachment into the countryside and would not conflict with the purposes of including land within the Green Belt. However, this does not detract from my overall findings that the development would cause substantial harm to the openness of the Green Belt.
28. For the above reasons, the proposal would not meet the exception listed at part g) of paragraph 154 of the Framework and would be inappropriate development in the Green Belt. The proposal would also conflict with Policy CP11 of the Core Strategy and Policy DM2 of the Local Development Document, the purposes of which have been set out above.

Affordable housing

29. Policy CP4 of the Core Strategy seeks an overall provision of around 45% of all new housing as affordable housing. In relation to small sites delivering between one and nine dwellings, the use of commuted payments towards provision off site is considered.
30. The Council's evidence sets out a robust case for an acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. The Council and the appellant have come to an agreement on a commuted payment of £122,267 towards off site affordable housing provision. Based on the evidence before me, I have no reason to dispute this. The appellant has provided a completed Unilateral Undertaking which would secure the required financial contribution.
31. The contribution sought has been demonstrated to be necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Consequently, the obligation would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the Framework.
32. I therefore conclude that the proposal would make appropriate provision for affordable housing in accordance with Policy CP4 of the Core Strategy.

Other considerations

33. The proposal would provide three new homes, which would be adaptable and would be supported by parts of the Framework with regard to boosting the

⁶ 20/3253806

⁷ 18/2327/FUL

supply of homes, the re-use of brownfield land and the effective use of land in meeting housing needs. It would also support the government's objective of building homes the country needs which is also spelt out in the recently published WMS. As this is a small site, it could also be delivered quickly. Given that the Council is currently unable to demonstrate a five-year housing land supply, I afford significant weight to the contribution that the proposal would make towards meeting needs for housing that are currently going unmet. However, the contribution to the overall supply on reducing the shortfall would be relatively small. While that does not diminish the weight that I give the contribution, it does restrict the extent of the benefit.

34. An off site affordable housing contribution would be secured and in view of the supply position noted above, I afford this provision substantial weight.
35. There would be a biodiversity net gain of just over 280% in habitat units. As the Framework requires net gain for biodiversity, I give this significant weight on account of the size of the net gain.
36. There would be economic and social benefits associated with the proposal, including employment and spend during construction as well as spending and support for local services by future occupiers. However, these benefits are likely to be fairly limited on account of the quantum of development proposed. Employment opportunities would further be largely temporary during construction, albeit not exclusively. Overall, I give moderate weight to these benefits.
37. Although the existing buildings have a relatively unassuming appearance, I give the visual enhancements of the appeal site limited weight given that the existing buildings do not have a negative effect on the street scene.
38. Whilst the government has proposed changes to the Framework to introduce the concept of grey belt, as this is only at the consultation stage, I am only able to give very limited weight to this.
39. The appellant asserts that there would be a reduction in carbon emissions, noise and vehicle movements than the existing use of the site. However, I can only give these considerations minimal weight as these details have not been quantified in the evidence before me to allow a robust comparison.
40. Even if I were to accept that the existing use of the appeal site is non-conforming in the Green Belt, this consideration would be of minimal weight given that I have found the proposal to be inappropriate development in the Green Belt.
41. The Council raised no objections on drainage, contamination, design, landscape or heritage grounds, and did not identify any harm to be caused to the amenity of neighbouring occupants. Compliance with relevant national and local planning policies on these matters would be required in any case. These matters are therefore of neutral weight. The proposal would also be liable for a Community Infrastructure Levy payment which would contribute to funding the infrastructure needed to support development. However, this would be required under the relevant legislation anyway and is also of neutral weight.

Planning and Green Belt Balance

42. The development would be inappropriate development in the terms set out by the Framework. As required by the Framework, substantial weight is given to this harm.
43. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.
44. Against this harm, I give significant weight to the benefits of the provision of housing, the off site affordable housing contribution and the biodiversity net gain. I also give moderate weight to the economic and social benefits. In taking all factors into consideration relating to this appeal, the weight afforded to other considerations in support of the appeal would not, either individually or collectively, clearly outweigh the high level of harm to the Green Belt. This is despite the extent of, and degree of weight afforded to some of the benefits. Consequently, the very special circumstances necessary to justify the development do not exist.
45. Whilst the Council cannot currently demonstrate a five-year housing land supply, having found that very special circumstances do not exist, the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development proposed. Paragraph 11 d) of the Framework does not therefore indicate that permission should be granted in this case.
46. The proposal would conflict with Policy CP11 of the Core Strategy, Policy DM2 of the Local Development Document and the Framework.

Conclusion

47. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

L Reid

INSPECTOR