
Appeal Decision

Site visit made on 23 September 2024

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/B1930/W/23/3334568

Plot 107 off Sandridgebury Lane, St Albans AL3 6JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Kevin Duffy against the decision of St Albans City and District Council.
 - The application Ref is 5/23/1059.
 - The development proposed is the use of the plot as an allotment to grow vegetables and fruit trees with a garden shed, wooden fencing and a gate.
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Decision

1. The appeal is allowed and planning permission is granted for the use of the plot as an allotment to grow vegetables and fruit trees with a garden shed, wooden fencing and a gate at Plot 107 off Sandridgebury Lane, St Albans AL3 6JE in accordance with the terms of the application, Ref 5/23/1059, subject to the following conditions:
 - 1) The development hereby permitted shall not be carried out other than in accordance with the following approved plans: KD Site Location Plan, Kev Site Plan Block Plan and Dunster House Dad's Shed I – 2.4m x 1.8m.

Preliminary matters

2. The proposal is retrospective, as the development has already been carried out. Plot 107 is a small section of a large open grass field in the countryside and the designated Green Belt. As the time of my site visit, most of the field was open land, but Plot 107 has been fenced off with a post, rail and wire fence and a timber gate, all about 1.2 to 1.3m high. The plot was being used to grow vegetables and a number of young fruit trees. A timber shed, as shown on the proposed plans, was being used for gardening/agricultural storage.
3. The description of proposed development, as listed above, is a condensed version of that given on the application form, leaving out explanatory comments. It refers to the use of the land for growing vegetables and fruit trees. This falls within the definition of 'agriculture' in Section 336 of the Town and Country Planning Act 1990 (the Act) and thus does not amount to development as defined by Section 55 of the Act. Planning permission is therefore not required for this use of the land. I have, however, left this wording in the formal decision to avoid doubt. The Council raises no objection to the use in any case.

4. The fence and gate would normally be permitted development under Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) so that a planning application would not be required. The Council has, however, served an Article 4 Notice under the Order, removing permitted development rights for enclosures within this field, due to concerns arising from the sub-division of its ownership. Express planning permission is therefore required for the fence and gate, as well as for the shed. This decision is based on the plans on which the Council made its decision.
5. The development plan for the area is made up of the St. Albans District Local Plan Review 1994 (LPR) and the Sandridgebury Neighbourhood Plan 2019-2036 (NP).

Main issue

6. The main issue is whether the proposal constitutes inappropriate development in the Green Belt.

Reasons

7. Paragraph 152 of the National Planning Policy Framework (the Framework) advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 explains that construction of new buildings should be regarded as inappropriate in the Green Belt, except for listed exceptions. One of these exceptions is for buildings for agriculture and forestry. Paragraph 155 lists a number of other exceptions, including for engineering operations, which are not inappropriate provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt.
8. In general accordance with the Framework, LPR policy 1 aims to restrict development in the Green Belt to particular forms of development, with listed exceptions including developments required for agricultural purposes. The Council's refusal notice also refers to the relevant provisions of the NP, but does not specify any policy directly relevant to this type of development in the Green Belt. I note that none of the local objectors refers to a relevant NP policy in this particular regard.
9. The shed is clearly a building, so that Framework paragraph 154 applies. The situation is less clear cut for the fence and gate. The Council refers to a 2021 appeal decision for another plot in this field¹, where the Inspector found that the proposed hardstanding, fences and access track would change the physical nature of the land, so they would constitute engineering operations. The fence in that case was a minor part of the overall development, which included extensive hardstanding. The circumstances differ in the present case, as no hardstanding or other such engineering works are involved at Plot 107.
10. The definition of a 'building' set out at Section 336 of the Act includes 'any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.' The fence and gate are 'structures or erections' and therefore (when taken on their own, separate from

¹ APP/B1930/W/20/3264157

any larger scale engineering works) fall within the definition of a building. Framework paragraph 154 therefore also applies to the fence and gate.

11. As above, the use of the land is agricultural. The shed is a very small scale storage building which is essential to the agricultural operation. The appellant indicates that the enclosures are also needed, to protect the vegetables and trees from rabbits, muntjak deer and livestock. It is normal for horticultural land to be fenced for these reasons as animals like these can severely harm or destroy crops. In this remote setting, the appellant cannot monitor or respond to events as they happen, so some means of prevention is needed. I am satisfied that the shed and enclosures are all reasonably required for the purposes of agriculture. The exception to normal Green Belt restraint set out in Framework paragraph 154(a) for agricultural buildings therefore applies.
12. The allowance set out at Framework paragraph 154(a) does not require any assessment of the impact on openness. I conclude that the proposal is not inappropriate in the Green Belt. It accords with the Green Belt restraint policies set out in LPR policy 1 and the Framework.
13. I note the reasonable concerns of the City and District Council, the Parish Council and others about the potential visual impact of a proliferation of fencing and sheds across the sub-divided field. NP policy E2, as referenced by the Parish Council, states that any adverse impact on landscape, fields, views and gaps should be assessed and these features should be protected or mitigation should be provided.
14. This small plot, however, with its small scale development, is located far away from the public highway and other public vantage points where it has very little visual impact, taken on its own, despite its elevated position. The general openness of the landscape is maintained and no effects on any designated views have been brought to my attention. This development does not close down a gap between settlements.
15. I note that some other plots in other parts of the overall field have been developed in various ways, with differing visual impacts. I am not aware of the planning status of those other plots and have assessed this particular scheme on its own merits, including its minimal impact on the landscape. The Article 4 Direction, and other planning powers are in place to enable the Council to assess other proposals on their own merits as well. Accordingly, I find no conflict with NP policy E2's aim to maintain the views, landscape features and gaps between settlements.
16. I have considered all other matters raised. The shed and enclosures should not generate significant amounts of traffic on local roads. I note that the County Highway Authority raises no objection. I furthermore have no reason to believe that this area has particular wildlife value that is significantly affected.
17. I conclude that the proposal would accord with the development plan and would not be inappropriate development within the Green Belt. For the reasons set out above, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR