

Appeal Decision

Site visit made on 24 September 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2024

Appeal Ref: APP/W1905/W/24/3336536

Land off Admirals Walk between the New River Path and Admirals Walk Lake, Hoddesdon, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr J O'Connor against the decision of Broxbourne Borough Council.
 - The application Ref is 07/23/0269/F.
 - The development proposed is erection of two single storey four bedroomed dwellings set into the ground with planted roof and associated parking and access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The location of development in the above banner heading has been taken from the decision notice as this accurately describes the location of the site.
3. A Biodiversity Net Gain Assessment and associated Statutory Biodiversity Metric has been submitted with this appeal. The contents of which do not change the overall scheme and are not considered prejudicial to any party. I have therefore taken this into account in reaching my decision. The Council has also had the opportunity to comment on this.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposed development on highway safety including service, delivery, and waste collection provision;
 - The effect of the proposed development on biodiversity and ecology; and
 - Whether any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development

5. The appeal site relates to land located within the Green Belt to the southeast of Hoddesdon. It is situated off-road to the north of the route of Admirals Walk as it runs east off the bridge over the New River. It is accessed via an unmade and gated footpath with the vehicle and kissing gate set in from the main road. The surrounding area is largely untended and sylvan in appearance, but the appeal site is mainly grassed in nature with verdant tree and hedge growth around the boundaries. Further to the east, beyond the access route and an area of amenity land, is the Admirals Lake Wildlife Site.
6. Policy GB1 of the Broxbourne Local Plan, 2020 (BLP) relates to Green Belt and explains that within the Green Belt, as defined on the policies map, planning applications will be considered in line with the Framework. I note the appellants' claims regarding the supporting text to this policy in terms of isolation matters. The proposed development would however still be required to be in line with the Framework with matters of openness discussed further below.
7. Paragraph 154 of the Framework relating to proposals affecting the Green Belt explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. There are a number of exceptions to this although the proposed development which comprises the erection of two single storey four bedroomed dwellings set into the ground with planted roof and associated parking and access would not fulfil any of the terms for exemption. As a consequence, the proposal is inappropriate development which is, by definition harmful to the Green Belt and should not be approved except in very special circumstances (Paragraph 152, Framework).

Openness

8. 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 both a visual aspect as well as a spatial aspect and thus both aspects need to be considered.
9. Currently the appeal site is a green and open site which slopes downwards from the west to east and contributes significantly to the open and pleasant character of this local idyllic setting. It is clearly visible from a number of public viewpoints particularly along the path running adjacent to the New River which is a much-used route for local residents and dog walkers as well as providing a useful off-road walk for commuters from Hoddesdon to the Broxbourne rail station to the south. The site is also visible from the existing public footway to the east along through to the Admirals Lake Wildlife Site and the Lee Valley Park.
10. The excavation of the site would allow for the proposed dwellings to be sunken into the existing slope of the land with green roofs in order to camouflage the structures from views to the north and west of the site which would reduce some public awareness of the structures. However, there would be frontages with parking and access for each dwelling which would be open to view and highly apparent from the public footpath above and that to the east. The

fronts of each property would be extensively open glazed which would also be visible from the east. The development would therefore be highly apparent and would cause an invasive encroachment of urban residential development into the countryside and result in a deleterious loss of its overall intrinsic character including the idyllic setting of the site. It would result in a loss of openness in visual terms leading to a fundamental and permanent change to the Green Belt.

11. The proposal would introduce built development into an existing open parcel of land currently devoid of any significant built development. In spatial terms, the footprint and mass would inevitably have an impact on the openness of the Green Belt.
12. For the above reasons, I conclude that the proposed development would harm the openness, setting and character of the Green Belt. It would therefore be contrary to Policies GB1 and DSC1 of the BLP which together relate to Green Belt and general design principles. The proposed development would also be contrary to the guidance contained at chapter 13 of the Framework relating to protecting Green Belt land.
13. The Council has cited Policy NEB2 of the BLP within this reason for refusal although I find this Policy to be more applicable in relation to matters concerning biodiversity and ecology which I cover further below.

Highway safety including service, delivery, and waste collection provision

14. The existing access arrangements from Admirals Walk to the southeast allows only for pedestrian access and the occasional service vehicle for the Park Authority. Based on the evidence before me and my own observations onsite, it is clear that there is no recognised right of access for public vehicles or a roadway or servicing for regular use. The proposed arrangements would utilise the existing access arrangements for the use of vehicle and pedestrian access to the properties, resulting in an intensification of this route.
15. Upon approaching the site from a westerly direction, drivers cross over New River Bridge, which is a single carriageway, running steeply downwards towards the junction between Admirals Walk and Meadway with a noticeable curve in its course. There is also thick and verdant tree and hedge growth abutting the highway to the western side in this direction. This restricts the visibility of the proposed access point for the site for approaching vehicles whereby drivers tend to pick up speed having traversed the bridge. I appreciate the claims made regarding low trip rates although this would not alter my findings as visibility is still restricted and thus a safe and secure access onto the route of Admirals Walk cannot be created for this site. The formation of a new traffic junction would be set almost immediately opposite the existing one across the road which coupled with the above, would increase road danger and would be prejudicial to highway safety.
16. The agreement with the owners of the neighbouring land to the west, that any vegetation overgrowth within this parcel, would be removed/kept clear in perpetuity would not sufficiently mitigate against the harm identified nor would other proposals put forward such as double yellow lines etc. This is because the land lies outside of the appeal site/red line boundary and there is no mechanism in place other than a short letter from the neighbour to secure such proposals making it difficult to control. This would also not outweigh the

other harm I have identified in my decision relating to highway safety including service, delivery, and waste collection provision.

17. Reference has been made to a previous use of the site for allotments although this is not recognised by the Council and based on the evidence before me, I cannot be sure that this has been the case, and I must determine the appeal based on the present context and its own merits. The comparison between trip rates for the different uses as well as lack of any associated issues would not therefore weigh in favour of the appeal.
18. The track proposed as the vehicular approach to the site will need to be upgraded to ensure adequate and safe access and servicing which would spoil the pleasant aspect and amenity of this part of the route for local residents who already use this route. The access would require service vehicles, and in particular waste collection trucks, to travel a good distance to reach the proposed dwellings. It is understood that this route would unlikely be taken for adoption resulting in operatives and other visitors needing to make the onerous travail along the private track which could be a difficult one at times of emergency and regular delivery. The distance would significantly exceed the travel distances from the public highway for waste collections as set out in the Borough Waste Supplementary Planning Document meaning that future residents would carry waste to a collection point closer to the highway which as set out above is a good distance from the site. This would place a tedious and time-consuming burden on occupiers. In doing so, this would also further spoil the pleasant and quiet aspect of this entrance even if bins were moved out to a holding point for collection and moved back at the end of the day.
19. For the above reasons, the proposed development would unacceptably harm highway safety and would fail to suitably secure service, delivery, and waste collection provision at the site whilst harming the pleasant sylvan nature of the access route. It would therefore be contrary to Policies TM1, TM2 and TM3 of the BLP which together, amongst other matters, explains that development proposals must ensure that the safety of all movement corridor users is not compromised whilst providing for adequate, safe, and convenient servicing arrangements, access points and drop off areas.

Biodiversity and ecology

20. It is understood that a Preliminary Ecological Appraisal (PEA) was submitted with the scheme which describes the baseline ecological conditions at the site, evaluates habitats within the survey area and describes the suitability of those habitats for notable or protected species. It identifies possible ecological constraints as a result of the proposed development and summarises the requirements for further surveys and mitigation measures to inform subsequent mitigation proposals.
21. The survey results confirm that there are no notable habitats within the site with the closest being deciduous woodland located 300 metres west from the site. Other habitats within the site are common and widespread and have low ecological value. No protected or notable plant species were recorded during the survey. It goes on to cover various features providing commentary on the impact assessment and then provides a number of recommendations. Many of these are of a precautionary nature. Based on the evidence before me and without sufficient evidence to the contrary, the report provided is of a sufficient level of detail to highlight that the recommendations proposed would

provide sufficient and appropriate protection to biodiversity and ecology. I am therefore persuaded that the proposed development is unlikely to have a significant ecological impact even taking into account the new access route.

22. A Biodiversity Net Gain Assessment and Biodiversity Metric has also been submitted confirming that the site can achieve a biodiversity net gain exceeding the mandatory 10% net gain following alteration to the current landscaping proposals. This could be secured by an appropriately worded planning condition were I minded to allow the appeal including appropriate management regimes to deliver biodiversity gain in perpetuity. I am also mindful that biodiversity net gain is now mandatory for small developments such as this scheme which has come into effect since the determination of the application.
23. For the above reasons and without sufficient evidence to the contrary, I conclude that the proposed development would not have an unacceptable impact on biodiversity and ecology. The proposed development would therefore accord with Policies NEB1 and NEB2 of the BLP which together, amongst other matters, explains that development proposals should result in net gains to biodiversity wherever possible.

Other considerations

24. I am aware of the sustainable location of the site and proposed Passivhaus standards of construction as well as the sustainable aspects of the design and claims regarding a proposed unique/innovative scheme. Given that the scheme relates to two dwellings, the extent to which these factors would be beneficial is limited. The overall design of the scheme is also not so truly innovative and of exceptional quality as to represent a significant benefit in terms of the character and appearance of the surrounding area. The undeveloped form of the existing site already contributes significantly to the open and pleasant character of the local setting. There would be no significant benefit to have the land developed and such matters therefore carry limited weight.
25. Pre-application advice with the Council has previously been undertaken and I am aware of the discussions had to date regarding the scheme including comments regarding its innovative/unique design. I am also aware of discussions had with the Lee Valley Regional Park Authority. This would not however alter my findings in relation to the above main issues nor weigh in favour of the scheme. Any pre-application discussions prior to the application being made is indeed non-binding and thus would not carry any material weight.

Planning Balance and Conclusion

26. Paragraph 152 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Additionally, the proposed development would have an adverse impact upon the openness of the Green Belt both visually and spatially as well as other harm I have identified above. My findings regarding biodiversity and ecology would not alter this.
27. Paragraph 153 of the Framework explains that substantial weight should be given to any harm to the Green Belt and that '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. Whilst I acknowledge the other considerations put forward by the appellant as set out above, the Framework makes it clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt which I have applied.

28. Therefore, 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.
29. In failing to comply with the policies as identified above, the proposal cannot be said to comply with the development plan taken as a whole. There are insufficient material considerations to justify a decision other than in accordance with the development plan. For the reasons given above, the appeal is dismissed.

N Teasdale

INSPECTOR