



Appeal Decision

Site visit made on 11 November 2024

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

Appeal Ref: APP/J1915/W/24/3339916

Suite 1, The Stables, Cannons Mill Lane, Bishop's Stortford CM23 2BN

- 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 Mark Newman (Marks Heeley Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2098/FUL.
 - The development proposed was described as 'new build office development (amended)'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A continuous red line in the site plan encloses a substantial area of land, including an existing office building, car park and a large grass field which would remain unaltered¹. It also includes a tennis court shown by a dotted red line in the site plan which would be redeveloped for the proposed office building and new landscaping. The appellant's architect described this part of the land as the application site². Accordingly, I refer to it as the appeal site.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt, including its effect on the openness of the Green Belt;
 - its effect on a Local Green Space;
 - whether it would be acceptable, including in location, having regard to flood risk and sustainable urban drainage; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to very special circumstances required to justify the proposal.

Reasons

4. The tennis court was granted planning permission by the Council as part of a scheme to convert a former stables building to offices, including car park³. This development and the grass field is part of a long, relatively narrow tract of mainly

¹ Drawing number TPA-0-300 A

² Design and access Statement, July 2023

³ Ref 3/89/1123/FP

undeveloped land that extends inwards from the edge of Bishop's Stortford towards its centre and separates opposing parts of the built-up area along the River Stort corridor. Development is restricted here including because the open character of this part of the settlement makes an important contribution to the openness of the Green Belt. Because of its mostly semi-natural character the Council has also designated this land as a Local Green Space (LGS)⁴.

Whether inappropriate development in the Green Belt

5. Policy GBR1 of the East Herts District Plan, October 2018 (the EHDP) states that planning applications in the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (NPPF)⁵. The NPPF sets out that development in the Green Belt is inappropriate unless an exception applies. Most relevant in this case are those at NPPF paragraphs 154(e) and (g). Additionally, NPPF paragraph 155 includes that commercial development in the Green Belt should also not be regarded as inappropriate, subject to meeting certain criteria.

Paragraph 154(e)

6. The NPPF does not define 'limited infilling in villages' and nor does the EHDP. The appeal site is in Bishop's Stortford and the office would comprise less than 100 sqm floorspace which I consider to be a limited form of development. The existing office building runs along a stretch of the south side of Cannons Mill Lane, though most of this lane is undeveloped. Albeit set slightly further back, the office would be next to this frontage on one side of it and extend it by a short distance in this direction.
7. However, there are no more buildings in this same direction further along this same (or the other) side of the lane before the pedestrian railway level crossing. The office would not be bordered on both sides by buildings or take up a gap in a continuously built-up frontage. Though it would be next to a permanent ancillary outbuilding, this building is set much further back from the lane and does not face it. There are no other adjacent buildings to the north, east or south.
8. As a result, the appeal site is not sufficiently surrounded by buildings to render the proposed office within a meaningful group of buildings. The proposal would be more akin to 'rounding off' to consolidate this sporadic development, not infilling so it fails to meet the exception at NPPF paragraph 154(e) and is contrary to EHDP Policy GBR1.

Paragraph 154(g)

9. Although the office would not be limited infilling, the main parties agree that the appeal site is previously developed land (PDL)⁶. Whether or not it is still actively used as a tennis court, this PDL would be redeveloped by the office on a smaller part at one end and the rest landscaped as a grass field. This would result in the partial or complete redevelopment of PDL but the Council considered that the office would have a greater impact on the openness of the Green Belt than the existing development.
10. The hard surface of the tennis court and surrounding apron covers a large area but is mostly coloured green and at ground level. A net and support posts have limited

⁴ Also referred to as 'green wedge' or 'green finger'

⁵ NPPF December 2024

⁶ NPPF Annex 2: Glossary

height and substance. The perimeter fence is taller, more extensive and juts out some distance away from the existing office building parallel to the lane. But, as I saw, in actual fact the narrow metal posts and fine mesh, inset slightly below the lane, make this structure largely recessive and indistinct, including that the large volume of space it encloses is essentially spatially and visually still 'open'. It is also a form of development that is not inappropriate in the Green Belt, including because the Council considered it did not conflict with the purposes of including land within it.

11. A simple design, including L-shaped floorplan, low eaves level and mostly hipped or half hipped roofs would give the impression of a single-storey building. But it would be between about 6m to 7m wide, 12m long and 6m to main ridge, including a short projecting gable with pitched roof on one side. This would establish a not inconsiderable external envelope and volume of 'solid' built form where there is none at present. The significant size of this building would render this end of the appeal site no longer 'open' in any equivalent or comparative sense to its existing condition, not even close. Moreover, its proximity to the existing office building and ancillary outbuilding would unduly consolidate this incidence of development.
12. A new timber post and rail boundary fence would have greater spatial and visual substance than the existing fence materials, so albeit not as tall, have a largely neutral overall effect on openness. Removing the rest of the hard surface would return this part of the appeal site to an undeveloped condition and despite the sympathetic colour of the tennis court, grass would give a more convincing impression as part of the field. Nevertheless, the tennis court is already 'open' so this change would have a limited practical positive effect on openness.
13. Consequently, although there would be a significant reduction in hardstanding at ground level and despite the new fence or landscaping, none of this would off-set the more substantial three-dimensional form of the office building. This innate permanent spatial presence would also have visual presence in public view to passers-by from Commons Mill Lane, including users of public open space on the north side of the lane or transiting the railway level crossing to the east. This appreciable change to existing circumstances by loss of openness would also be noticed by those working in the existing office building or visiting it.
14. Albeit in a small way, the effect of the office building in further merging two distinct developed parts of Bishop's Stortford towards each other would not safeguard this part of the settlement from encroachment, which has the overall impression of countryside. In particular the upward and outward spread of built form compared to what already exists on or next to the appeal site would not check the unrestricted sprawl of this large built-up area, which is a purpose of the Green Belt.
15. The proposal would, therefore, cause substantial harm to the openness of the Green Belt, which is one of its essential characteristics. As such, it fails to meet the exception at NPPF paragraph 154(g) and is contrary to EHDP Policy GBR1.

Paragraph 155

16. The office is a commercial development (so the 'Golden Rules' requirements of NPPF paragraph 155(d) are not applicable) and it would be in a sustainable location to satisfy NPPF paragraph 155(c). The Green Belt covers approximately one-third of the Council's District and in that context, the limited extent of the appeal site and form of proposed development would not fundamentally undermine

the purposes (taken together) of the remaining Green Belt across the district in the EHDP plan area, nor the Bishop's Stortford Neighbourhood Plan for Silverleys and Meads Wards Plan, 1st Revision 2021-2033 (the BSNP) plan area given that it covers a significant part (two of the five electoral wards) of Bishop's Stortford.

17. However, the PDL in this case strongly contributes to checking the unrestricted sprawl of a large built-up area, which is purpose (a) of the Green Belt in NPPF paragraph 143. Accordingly, the appeal site is by definition⁷ not grey belt land so fails to meet NPPF paragraph 155(a) for this reason. It is also excluded from grey belt land because of the application of policies under NPPF footnote 7, including in this case a Local Green Space.
18. The office may provide employment for some occupiers of nearby significant planned or already built new housing development in the town. However, there is no objective evidence that it is necessary beyond any new employment provision that might have already been planned for or built. Nor is there any such evidence that the site is in a designated employment area or should be considered as the same simply because the existing office building has existed for many years. I have also not been informed about any other requirement for offices, including due to the turnover or expansion of occupiers of the existing office building or that cannot be met elsewhere. In these circumstances, there is no demonstrable unmet need for the type of development proposed so NPPF paragraph 155(b) is not met.
19. The proposal does not, therefore, meet (in this case) all three of the required criteria (a), (b) and (c) so fails to meet NPPF paragraph 155 overall and is contrary to EHDP Policy GBR1.

Conclusion

20. I find that the proposal is inappropriate development in the Green Belt.

Local Green Space

21. EHDC Policy CFLR2 and BSNP Policy GIP2 include that development in a Local Green Space will be permitted if it is consistent with the function, character and use of the Local Green Space. The BSNP considers this should be in-line with managing the Green Belt. In essence, the objectives of both policies are to protect valued green areas from inappropriate development because of their beauty, historic significance, recreational or amenity value (including for formal or informal recreation), richness of wildlife and overall contribution to promoting healthy communities.
22. There is no evidence that office development in a new building is consistent with the function, character or use of the LGS. There is no explanation of why the tennis court is currently no longer used to its full potential or a benefit to workers in the existing office building. It is a facility and use that is otherwise consistent with the LGS designation and, on the face of it, could be well-maintained as such. Nor is there any suggestion that the proposed office building is the only way to keep the rest of the appeal site consistent with the function, character and use of the LGS.
23. Accordingly, I find that the proposal would have a significant local adverse effect on the LGS and as such does not comply with EHDC Policy CFLR2 or BSNP Policy GIP2.

⁷ NPPF Annex 2: Glossary

Flood risk and sustainable drainage

24. The Council considers that most of 'the site' is in Flood Zone 1 (low probability of, in this case, river flooding). But that 'where the proposed development is to occur', which I take to mean the appeal site including the office building, is said to be in Flood Zone 2 (medium probability of river flooding). The Council has not provided the information it says it has to substantiate this, including from the Environment Agency's (EA) website and flood map for planning with a date.
25. The appellant's report includes information from the EA, such as a flood map for planning and other maps⁸. It maintains 'the site' is in Flood Zone 1. The tennis court is shown by a red line on the front cover of the report but inside, the site is also described as the existing office building including car park, not that part of the site 'to which the planning application pertains'. So, it is not clear to me precisely what the report intends is the relevant Flood Zone over the appeal site, including the proposed office building and not least because most of the EA base maps it contains are back to front so difficult to interpret⁹. The EA information in the report, including flood maps, is anyway about two and a half years old (July 2022) with no evidence they remain up-to-date.
26. There is no apparent reason why some details of any necessary flood risk control, mitigation or management measures and a sustainable drainage system (SuDS), could not in principle be secured and implemented by a planning condition. But I cannot be certain that all the measures proposed by the appellant would be suitable or appropriate to the relevant Flood Zone for the appeal site, including the office building. Moreover, the Council's relevant consultee advised that some further information was required prior to granting planning permission¹⁰. These issues are relevant to an in principle decision in this appeal, including the potential application of the sequential and exception tests or any relevant exemption¹¹. As such, they cannot all be left to a condition for subsequent approval.
27. As a result, I am not satisfied the appellant has demonstrated that the proposal would be acceptable, including in location, having regard to flood risk and sustainable urban drainage. In these circumstances it is contrary to EHDP Policies WAT1 and WAT5 and BSNP Policy GIP8. These policies include that development should not increase the likelihood or intensity of any form of flooding, nor increase the risk to people or property on or off site. In addition, to ensure it is steered to areas with the lowest risk of flooding, incorporate suitable and appropriate flood resilient design and the most suitable SuDS having regard to surface water management and as a means to reduce flood risk.

Other considerations

28. The offices would provide a small-scale employment use and likely help to sustain the local economy. Subject to conditions there would be ecology enhancement on the appeal site and the office building would be water and energy efficient, including electric vehicle charging points. These outcomes would accord with other policy objectives of the Council's development plan and the NPPF and, in these terms, make efficient and effective use of the appeal site. This addition to the stock of offices (with no evident local business or other specific need to support economic

⁸ Flood Risk and SuDS Assessment Ref H16240 Rev A - Dated 26th October 2023

⁹ Appendix C

¹⁰ Hertfordshire County Council (Lead Local Flood Authority)

¹¹ NPPF paragraph 176

growth and productivity), net gain in biodiversity and contribution to managing the effects of climate change would be modest so these considerations each have limited weight in support of the appeal.

29. Subject to conditions, the Council did not otherwise object to the proposal for any other reason, including proximity of some protected trees or the design and materials of the proposed office building which would otherwise be a good fit with the existing office building. The absence of harm in these regards is a neutral factor in my decision.
30. In final comments the appellant referred to 'the introduction of a footpath' along Cannons Mill Lane. But there is no evidence this is part of the planning application or development applied for, as considered by the Council or the public were consulted about. Nor is there any detail in this regard at appeal stage, including a suitable mechanism to secure this alleged improvement. There is, therefore, no apparent pedestrian highway safety benefit.
31. The proposal is a revised scheme that the appellant considers addresses the Council's reasons for refusing planning permission for another scheme for three office units in a much larger building on the appeal site¹². The Council has maintained some of its previous reasons for refusal and while both schemes relate to office use, there is little other apparent similarity. I have considered the proposal in this appeal on its individual planning merits.

Green Belt Balance

32. The proposal is inappropriate development in the Green Belt, by definition harmful to the Green Belt and should not be approved except in very special circumstances. As is also required by the NPPF, I give substantial weight to any harm to the Green Belt, including modest harm to its openness in this case. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The moderate harm to the function, character and use of the LGS and absence of sufficiently proven robust flood risk and SuDS provisions both add further notable weight against the appeal.
33. The other considerations outlined earlier do not, therefore, individually or collectively clearly outweigh the totality of the harm. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

34. The proposal conflicts with local and national policy to protect the Green Belt and a Local Green Space and to address flood risk, including drainage. There are no other material considerations to indicate that the appeal should be determined otherwise than in accordance with the development plan taken as a whole.
35. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

¹² Ref 3/23/0555/FUL