



Appeal Decision

Site visit made on 18 February 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 May 2025

Appeal Ref: APP/J1915/W/24/3349676

Land Adjacent to The River Beane And Woodville Place, Hertford

- 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 Umesh Chhatralia of Sasen against the decision of East Hertfordshire District Council.
 - The application Ref is 3/24/0239/FUL.
 - The development proposed is described as erection of 1 residential dwelling incorporating solar PV panels. Creation of driveway and parking provisions, waste and cycle storage areas, installation of ground source heat pump and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form does not contain an address for the appeal site, therefore I have used the address given on the appeal form and decision notice for clarity.
3. I have used the description of development from the decision notice in the banner heading above for clarity.
4. The revised National Planning Policy Framework (the Framework) was published in December 2024. The parties have been provided with the opportunity to comment on the implications of the revisions to their cases. I have taken account of the revised Framework, and any comments made, in my determination of the appeal as necessary.

Main Issues

5. 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;
 - the effect of the proposal on the ecology, biodiversity and protected species on the site;
 - the effect of the proposal on highway safety and parking provision;
 - the effect of the proposal on the character and appearance of the surrounding area; and
 - the effect of the proposal on flood risk.

Reasons

Whether the proposal is inappropriate development in the Green Belt

6. The appeal site is located adjacent to The River Beane and Woodville Place Estate (the estate). It is currently scrubland and consists of overgrown vegetation and a variety of trees. However, it has previously accommodated a pigsty, storage buildings and been used for animal husbandry. It is sited within the Green Belt. The appeal scheme would introduce one residential dwelling.
7. Paragraph 155 of the Framework provides further instances of not inappropriate development besides those referenced in paragraph 154. It states that a) the development would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, b) there is a demonstrable unmet need for the type of development proposed, c) the development would be in a suitable location, with particular reference to paragraphs 110 and 115 of the Framework and d) where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 of the Framework.
8. The term 'Grey Belt' is defined in the Framework as land in the Green Belt comprising previously developed land and/or any other land that in either case does not contribute to any of the purposes (a), (b) or (d) in paragraph 143.
9. The definition of previously developed land excludes land that was last occupied by agricultural or forestry buildings such as the pigsty and storage buildings referred to by the appellant. However, given that the appeal site is adjacent to the Estate, as well as other residential dwellings along Molewood Road to the south of the site, it would not contribute to the unrestricted sprawl of a large built-up area. It therefore follows that it would not result in the merging of neighbouring towns or fail to preserve the setting and special character of any historic towns. Consequently, it meets the criterion to be classed as Grey Belt and part a) of paragraph 155 is met.
10. The Council is unable to demonstrate a five-year housing land supply and it follows therefore that there is a demonstrable unmet need for residential development. Consequently, considering the proposal would provide a form of living accommodation, part b) of paragraph 155 would be met.
11. Paragraph 155 part c) of the Framework requires development to be sustainably located with respect to its approach to transport accessibility. The appeal site is within a reasonable walking distance to the centre of Hertford which has a variety of amenities as well as a train station. Therefore, future occupants of the appeal scheme would benefit from sustainable transport options. The appeal scheme would consequently comply with part c) of paragraph 155 of the Framework.
12. Finally part d) references the Golden Rules however, these rules only pertain to major housing development (any housing scheme of 10+ units or site area of 0.5ha or more). Consequently, part d) of paragraph 155 of the Framework does not apply to the appeal scheme.
13. In conclusion, the appeal site is in the Grey Belt and complies with paragraph 155 of the Framework, therefore, the proposed development would not be inappropriate in the Green Belt. Accordingly, it would comply with Policy GBR1 of

the East Herts District Plan 2018 (EHDP) insofar as it seeks to restrict development in the Green Belt in accordance with the Framework

Ecology, biodiversity and protected species

14. The appellant has referred to Policy NE2 stating that it aims to prevent the loss of protected open space. However, it requires developments to demonstrate a net gain in biodiversity where it is feasible and proportionate to do so and establishes the application of the mitigation hierarchy of avoidance, mitigation and compensation. This is further supported by Policy NE3 which outlines that development should always seek to enhance biodiversity and that adequate evidence is required in the form of up-to-date ecological surveys prior to the submission on an application.
15. The appellant has submitted a biodiversity questionnaire. However, the Council considers some of the information contained within it to be incorrect. Irrespective of its validity, it does not establish the existing biodiversity value of the site nor therefore, how the development would improve the sites biodiversity value.
16. Moreover, the appellant considers that the design of the appeal scheme would avoid disturbance to key habitats, would provide compensatory habitats where necessary and would maintain green corridors. However, they have not submitted adequate detail regarding how the appeal scheme would result in a net gain of the biodiversity value of the site in the form of an up-to-date ecological survey as required by Policy NE3.
17. Policy DES3 of the EHDP requires development proposals demonstrate how they will retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value to ensure there is no net loss of such features. The appellant has referred to a landscape scheme, green roof and the intention to increase and create further wildlife habitats as part of the appeal scheme. However, given the lack of ecological survey, there is limited evidence before me to demonstrate which existing landscape features are of biodiversity value and consequently whether the landscape scheme, green roof and intention to create wildlife habitats would be adequate to ensure no net loss of landscape features.
18. Given the limited information before me regarding the ecology, biodiversity and possible protected species on the site, it has not been adequately demonstrated that the proposed development would enhance biodiversity and create opportunities for wildlife. Therefore, the appeal scheme would conflict with Policies DES3, NE2 and NE3 of the EHDP insofar as they seek to achieve no net loss of existing landscape features of amenity or biodiversity value, a net gain in biodiversity and to ensure that due consideration is given to ecology and any protected species on site.

Highway safety

19. Policy TRA3 of the EHDP establishes that vehicle parking provision associated with development proposals will be assessed on a site-specific basis and should consider the provisions established in the Vehicle Parking Provision at New Development Supplementary Planning Document 2008 (the SPD) and the revised vehicle parking standards which were agreed in 2015.

20. The SPD and revised vehicle parking standards state that a four bedroomed dwelling should provide parking provision for up to three vehicles. Whilst the appellant refers to adequate parking provision the plans before me establish two parking spaces. Consequently, the appellant has not adequately demonstrated how the appeal scheme would provide the third parking space.
21. Additionally, the Highways Authority has also objected to the scheme because of concerns regarding the ability for a large private car to be able to enter and exit the appeal site safely. The appellant refers to adequate visibility splays for safe vehicular and pedestrian access, inclusion of infrastructure for electric vehicle charging, minimal traffic generation resulting from the appeal scheme, bicycle storage provision and the proximity of the site to nearby public transport. However, the appellant has not demonstrated that a vehicle can enter the access, manoeuvre along the length of the driveway, park and leave the site in forward gear, due to the absence of an adequate swept path analysis.
22. Therefore, given the above, the appellant has not adequately demonstrated that the proposed development would provide adequate car parking and would not result in harm to highway safety. The appeal scheme would therefore conflict with Policies TRA2 and TRA3 of the EHDP insofar as they seek to ensure safe and suitable access for all users and that developments provide adequate parking provision.

Character and appearance

23. I have identified above that the appeal site is currently overgrown scrubland but that it is in the proximity of other residential dwellings. The immediate streetscape is on balance urban in character given the proximity of the Estate and the aforementioned dwellings on Molewood Road.
24. The private road on which the appeal site abuts has existing urban features such as signs denoting Woodville Place as well as a traffic sign to raise awareness of pedestrians that may be crossing the road. Furthermore, when facing towards the estate a residential dwelling and garage can be viewed clearly as well as various soft landscaping features associated with the dwelling.
25. An interested party has indicated concerns that the appeal scheme would be visible from a popular rambling and access route known as Hertford 093 which is part of the Hertfordshire Way. However, there is limited evidence before me to suggest that the appeal scheme would result in significant harm to the character and appearance of the rambling and access route. The Council has not raised this matter as a concern and I find no reason to disagree on this matter.
26. Given the above, the introduction of one dwelling and the likely associated residential and urban features such as boundary treatments and parked cars would not result in significant harm to the character and appearance of the surrounding area. The appeal scheme would therefore comply with Policy DES4 of the EHDP insofar as it seeks to ensure developments are of a high standard of design and assimilate with the surrounding area.

Flooding

27. Policy WAT1 of the EHDP requires the submission of a flood risk assessment if a development is in Flood Zone 2 or 3. The Council refer to the appeal site being

within flood zone 3. However, according to Hertfordshire Flood Risk Management Viewer evidence provided by the appellant the appeal site is not within flood zone 2 or 3. Consequently, I have no substantive evidence before me to suggest that the proposal would exacerbate any existing flood issues. Therefore, the appeal scheme would comply with Policy WAT1 insofar as it seeks to ensure development does not contribute to any form of flooding.

Other Matters

28. A single track road and small bridge separate the appeal site from Molewood House and Molewood Lodge which is a Grade II listed building. The special interest and significance of Molewood House and Molewood Lodge is derived in part from its architectural interest, its historic fabric and its former use as a miller's house. Notwithstanding the proximity of the appeal site to Molewood House and Molewood Lodge, and there is some intervisibility between the two, in my judgement, the appeal proposal would preserve the setting of Molewood House and Molewood Lodge, the significance of which would not be harmed. A lack of harm in this respect, however, does not alter my overall conclusions.
29. The appellant has raised questions over the Council's handling of the case and concerns have also been raised by interested parties regarding highways ownership. However, these are private matters between the respective parties.
30. The Council has stated that they are able to demonstrate a housing land supply of between 4.20 and 4.49 years. The appellant has referred to the current housing land supply as 3.06 years. Both are below the housing land supply the Council is expected to deliver in line with the Framework. Whilst the proposal would deliver one unit this would nonetheless boost the housing stock in circumstances where there is a shortfall.

Planning Balance

31. As set out above, it has not been adequately demonstrated that the appeal scheme would not result in harm to biodiversity, ecology and protected species nor highway safety. Thus, there would be a material conflict with Development Plan policies. Due to the Council's housing land supply position, paragraph 11 d) of the Framework is engaged. Nevertheless, given that the relevant policies accord with the Framework, this conflict attracts full weight in this case.
32. The appeal scheme would result in an open market dwelling in a District that is falling below the level of housing supply required by national policy. It would make a modest contribution as indicated in paragraph 73 of the Framework.
33. The appellant states that there would be multiple benefits as a result of the appeal scheme. They highlight that the appeal scheme would contribute to addressing a housing crisis, the materials that would be used in its construction would result in a considerably long lifespan of the proposed development, the sustainable design would contribute to climate action goals, it would be accessible and inclusive for all future users due to its functional and accessible design, it would enhance local infrastructure and would result in the reduction of the reliance of private vehicles thus allowing it would be an optimal use of the land.
34. Regardless of these claims, I have identified above that the appellant has not adequately demonstrated that the appeal scheme would not result in harm to

biodiversity, ecology, protected species and highway safety. Accordingly, I give the appellant's claimed benefits limited weight.

35. Even if I were to use the housing land supply figure cited by the appellant, the adverse impacts I have identified above would significantly and demonstrably outweigh the benefits of the proposal when assessed against the Framework policies as a whole.
36. There are no other material considerations of such weight or significance to justify a decision other than in accordance with the development plan.

Conclusion

37. 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. For the reasons given above the appeal should be dismissed.

B Astley-Serougi

INSPECTOR