



Appeal Decision

Site visit made on 9 May 2019

by Jonathon Parsons MSc BSc DipTP (Cert Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2019

Appeal Ref: APP/C1950/W/18/3205438

Blue Moon Paddock, Woodfield Lane, Brookmans Park, Hatfield AL9 6JJ

- 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 Mr James Westrope against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2017/2964/MAJ, dated 21 December 2017, was refused by notice dated 5 April 2018.
 - The development proposed is the demolition of existing redundant structures and the erection of a single family dwelling (within the envelope of existing structures), together with associated tree planting scheme (part of the Centenary Woods project sponsored by the Woodland Trust; landscaping and car parking).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The new building would have green (planted vegetation) side gables, solar panels within a seamless timber roof and pond within its curtilage. These are mostly shown on plans P/506/B (roof plan) and P/502/C (site Plan). Although P/504/A (Sectional Elevations) does not show these changes, the changes proposed would be incorporated into any completed development. At the hearing, it was clarified that the residential curtilage of the new dwelling would be within the building side of the green edge shown on the submitted location plan P/500.
3. A draft Unilateral Undertaking (UU) was presented at the hearing which related to a woodland management plan, along with evidence of title in the land concerned. After the hearing date, a dated and executed Unilateral Undertaking dated 17 May 2019 was submitted seeking to secure the implementation of the plan. The comments of both main parties on the revised National Planning Policy Framework (NPPF) February 2019 were taken into account in this decision.
4. The examination of the emerging Welwyn Hatfield Local Plan (LP) Draft Local Plan Proposed Submission August 2016 is well-advanced. Both parties have agreed significant weight to be attached to these policies. There is no evidence of significant unresolved objections to the policies nor that the policies are inconsistent with the NPPF. On this basis, I concur with parties views on this matter.

Main Issues

5. The site is within the Green Belt and so the main issues are:
 - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the NPPF) and the development plan;
 - The openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - Accessibility to services and facilities by means other than private motorised vehicle; and
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether or not inappropriate development

6. The appeal site consists of a large rectangular shaped piece of land, bordered by Woodfield Lane and is covered by trees and vegetation, and grassland. At the north-east corner of the site, there is a long stable block building and a shorter, slightly wider building in a dilapidated state. An access track roughly follows the eastern boundary of the site, linking the buildings with Woodfield Lane. To the east of the two buildings, there is Chestnut Farm comprising various grouped single storey buildings and a dwelling, and a further dwelling known as The Ridings, closer to the road. The surrounding area comprises extensive areas of woodland, scrub and fields/paddocks and for all these reasons, the Green Belt is not built-up in this location.
7. The Framework establishes that new buildings or development are inappropriate unless they fall within the exceptions listed in paragraphs 145 or 146 of the NPPF. An exception is the limited infilling or the partial or complete redevelopment of a previously developed land, 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. The appeal site is previously developed land due to its former equestrian use and the development has been designed to be largely contained within the envelope of the proposed building so that it has the same footprint and volume of the existing buildings on the land. The matter at dispute is the effect of the proposal on the openness of the Green Belt.
8. The clear conceptual distinction between openness and visual impact, in *Timmins v Gedling BC [2014] EWDC 654 (Admin)*, was found to be incorrect in the Court of Appeal judgement *Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466*. This judgement confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect and assessing openness was found not to be limited to measuring the volume of the existing and proposed structures on the site. Many factors were found to be relevant and could include how built-up the Green Belt was currently and how built-up it would be if the proposed development went ahead.

9. Such an approach on openness of the Green Belt was further confirmed in the Court of Appeal Judgement, *Samuel Smith Old Brewery (Tadcaster) & Oxtan Farm v North Yorkshire CC & Darrington Quarries Ltd [2018] EWCA Civ 489* which indicated that when a development was likely to have visual effects within the Green Belt, the decision-maker was required to consider how those effects bore on the question of whether the development would preserve the openness of the Green Belt.
10. Turning to the proposal, the design would result in a glazed link between the two buildings and the infill of overhanging eaves of the existing stable building and thus, there would be an increase in the volume of the development, albeit limited. However, the existing buildings are lightweight timber outbuildings which are in keeping with their countryside location. In contrast, the new building, including link, would have significant glazing to windows and doors and solar panels. Areas of glazing would be from floor to ceiling, including a length of about 9m along the east elevation of the building. Illumination of such areas at night would further highlight the building in an otherwise dark setting.
11. Shutters would cover the openings when not in use, but the windows and doors serve a purpose to let light in and enable views out and in any case, occupants may also not always remember to close them. For these reasons, the family sized dwelling would be likely to have uncovered openings for considerable periods of time. Solar panels could be designed to sit flush with the plane of the wooden roofs but nevertheless, their coverage would remain extensive across much of the width of the roofs on the west elevation. Consequently, the new building and context would have an overly domesticated and urban quality. Visually, this would be in marked contrast to the existing equestrian buildings which are simpler and more rustic in design.
12. Furthermore, the outdoor areas would be likely to have associated domestic paraphernalia, such as children's play equipment, washing lines and sheds. Planning conditions could require planning permission for future domestic paraphernalia. Part of the building has provision for storage. However, it would be unreasonable to refuse such applications and prevent the erection of paraphernalia, for instance children's play equipment, outdoor garden furniture and washing lines. Such paraphernalia results from normal domestic requirements of a family sized dwelling and therefore, a condition would not meet the tests of the NPPF on the grounds of reasonableness.
13. Additionally, there would be requirements for boundary treatments for a residential curtilage and hard surfacing. Landscaped boundary treatments could be secured by planning condition but any new boundary would result in a sense of physical enclosure especially given the tightly drawn nature of the domestic curtilage. This demarcation would also emphasise the urban qualities of the development with the surrounding countryside.
14. Implementation of surface materials, including a type of 'grasscrete' could also be secured by condition and there would have previously been a need for hard surfacing associated with vehicle parking for the equestrian use. Given the previous use, the likely coming and goings of vehicles would be unlikely to be greater with the new residential use. However, the physical differences between the previous buildings and new building, illumination, need for domestic paraphernalia and enclosed domestic nature of the plot would result

in a noticeable visual difference between the two developments. As a result, the appeal site would be noticeably more developed than the previous equestrian development.

15. There would be limited public views of the new development within the locality but there would be views of the development from the neighbouring properties, especially when the deciduous vegetation is leafless. In any case, even if there was an absence of visual impact, there would still be a spatial impact by virtue of the greater built-up nature of the development as a whole. For all these reasons, there would be a greater impact on the openness of the Green Belt than the existing development and the previously referred exception would not apply. In conclusion, the proposal would amount to inappropriate development within the Green Belt for all these reasons. It would conflict with policy SADM 34 of the emerging LP.

Openness of the Green Belt

16. A 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. There would be greater impact on the openness of the Green Belt based on the physical differences between the existing and proposed building, illumination, domestic paraphernalia and enclosure formed by boundary treatments. In isolation, this adverse impact would be small but nevertheless, this would still result in harm to the Green Belt.

Character and appearance

17. The appeal site lies within an attractive rural surrounding, comprising woodland and vegetation, field and paddocks in a gently rolling landscape. Within the surrounding area, there are developments including mostly dwellings and rural-based buildings and activity set in countryside settings. The area comprises the West End to Brickendon Wooded Slopes Landscape Character Area. Associated with the proposal, the surrounding woodland would be actively managed through selective felling, thinning out and replacement planting over a minimum period of 20 years. Public views of the development would be limited.
18. However, the development would be visible from neighbouring properties especially during winter and the built-up urban nature of the development would also be out of keeping with the rural character of the area. Drawing all the above considerations together, there would be minor harm to the character and appearance of the area. Despite this, the proposal would still conflict with policies D1, D2 and RA20 of the adopted Welwyn Hatfield District Plan (DP) 2005, and policies SP9 and SADM 16 of the emerging LP.

Accessibility to services and facilities

19. The appeal development would be located within an existing group of buildings. Essenden is located to the north of the appeal site, with some limited facilities, including a shop/petrol filling station and public house. Further away, there lies Welham Green with its railway facilities, where there are a greater range of facilities and services. There are employment, leisure and educational uses northeast of Brookmans Park which include a restaurant, The Dutch Market Place and Chancellor's School. There is a local cycle route in the area.

20. Opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, it is highly likely that occupiers of the dwelling would use their own vehicles. Woodfield Lane has no footways or lighting within the vicinity of the appeal site and is heavily enclosed by roadside vegetation. As such, these conditions especially during inclement weather and darkness would discourage residents from walking or cycling. Therefore, even taking into account the rural nature of this location, residents would not have reasonable access to services and facilities by non-private vehicle means.
21. There would be an electric-charging point for the occupiers' vehicles. Although this would cut vehicle emissions, there is no guarantee that occupiers would use such a facility. Moreover, even if they did, resulting in the reduction of vehicle emissions, it would not promote walking, cycling and public transport modes of travel which the NPPF encourages in the interests of reducing congestion and public health.

Other considerations

22. The proposal would provide employment gains, as there would be a number of construction and landscaping jobs generated by the build, as well as business opportunities. However, the economic benefits would be mainly short-term being largely restricted to the initial re-development of the site. Over the long-term, the woodland management work would be infrequent similarly restricting the economic benefits. As such, the economic benefits would be limited.
23. There would be a boost in housing supply providing a new dwelling and the proposal would also free up two existing dwellings in the local area (the appellant's home and that of his parents). The Council has a deficient 5 year housing land supply, at worst calculated to be 3.1 years. The proposal would add to the quantity and quality of the Council's housing stock consistent with the NPPF's policies but the net gain benefit of two dwellings would be small.
24. The proposal would incorporate energy efficiency measures, including air source pump system, solar panels, high specification building insulation, Sustainable Urban Drainage, rainwater harvesting, green walls and would maximise passive solar energy. There would be an electric charging point for vehicles. This would exceed Council planning policy and Building Regulation requirements. The Appellant's proposals are broadly described within a Sustainability Audit Report but with the submission of further details, I see no reason why the building could not achieve a net zero carbon emission dwelling. Nevertheless, the sustainable housing design benefits of the dwelling would be small given that only one dwelling is proposed.
25. The area of the appeal site surrounding the proposed curtilage of the dwelling is within a County Wildlife Site. The original reason for its designation was species-rich grassland which has now disappeared. The timeframe for the creation of a WW1 Centenary Wood project has now expired but the additional woodland planting would be undertaken in association with the woodland Trust. The woodland management plan would bring about ecological improvements through the creation of high forest, variety of coppicing and wood pasture, the removal of non-native invasive species and overly-dominant patches of brambles. Given the extent of land, there would be modest environmental biodiversity and climatic change gains.

26. Planning permission would enable the opportunity to provide care on-site for the Appellant's elderly and infirm mother. However, personal circumstances will seldom outweigh the more general planning considerations as works of a permanent nature will remain long after the personal circumstances have ceased to be material restricting the value of this benefit. Community access for educational and recreational purposes would be provided where presently there is none. In an initiative supported by the local MP, access would be provided for local schools' nature study projects. However, there is little supporting information demonstrating how frequent access would be and therefore importance.
27. There has been a previous appeal decision dismissed for a larger proposal on the site and another dismissed appeal for an environmentally designed dwelling in a non-Green Belt location. The proposal seeks to address the comments of the previous Inspector on the appeal site. I also visited a large equestrian type development Spike Island, some of which is under Council enforcement investigation, and viewed a car park extension to a local church. Inevitably when making a comparison with other proposals, there will be significant differences in development nature, scale and planning justification as I have eluded to above and, in any case, every proposal has to be considered on its particular planning merits.

Conclusion

28. The proposal would be inappropriate development in the Green Belt which is by definition harmful. There is a harmful loss in the openness of the Green Belt. Additionally, harm would arise to the character and appearance of the area, albeit minor, and from future resident's poor accessibility to services and facilities by means other than private vehicles.
29. There would be a boost to a deficient housing land supply and economic benefits arising from the initial construction and future spending of residents on local facilities and services. There would also be social, economic and environmental, including sustainable housing design and biodiversity, and personal benefits. Combined, these considerations would weigh significantly in favour of the proposal. However, the NPPF establishes substantial weight should be given to any harm to the Green Belt. Additionally, other non-Green Belt harms have been identified. Consequently, 'Very special circumstances' do not exist as the harm to the Green Belt and other harms, are not clearly outweighed by other considerations.
30. In summary, there would be conflict with the NPPF and the development plan as a whole. By reason of the harms identified including to the Green Belt, the proposal would not represent sustainable development under the NPPF and the development plan. In this regard, the proposal would not represent sustainable development under DP policy SD1. There are no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and therefore planning permission should be refused. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

Jonathon Parsons

INSPECTOR

APPEARANCES

FOR THE APPELLANT

N Bennett MRTPI
B Greensmith
J Westrope

Magenta Planning
Greensmith Architect
Appellant

FOR THE LOCAL PLANNING AUTHORITY

M Peacock

Welwyn Hatfield Council

DOCUMENTS SUBMITTED AT HEARING

1. Proposed Tree Planting Plan Drawing No. P/508/A.
2. HM Land Registry Copy of Title.
3. Draft Unilateral Undertaking.
4. Appeal Decision APP/L2630/W/18/3215043.
5. Spike Island Photographs.
6. Statement of Common Ground.

DOCUMENTS SUBMITTED AFTER HEARING

1. Proposed Site Plan Drawing No. P/502/c
2. Unilateral Undertaking dated 17 May 2019.