

Appeal Decision

Site visit made on 5 December 2016

by Harold Stephens BA MPhil DipTP MRTPI FRSA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2016

Appeal Ref: APP/X1925/W/16/3156512

Land adjacent to Windmill Cottage, Pottersheath Road, Pottersheath, Hertfordshire AL6 9SU

- 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 Swing Ltd against the decision of North Hertfordshire District Council.
 - The application Ref 16/00364/1, dated 11 February 2016, was refused by notice dated 1 July 2016.
 - The development proposed is described as 'Development of the site for single dwelling house and detached garage, associated parking, landscaping and new access'.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues in this appeal are:
 - (a) whether the development would constitute inappropriate development in the Green Belt;
 - (b) the effect of the development upon the openness of the Green Belt;
 - (c) the effect of the development on the character and appearance of the area and the visual amenities of the Green Belt;
 - (d) if the development is inappropriate, 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 the development; and
 - (e) whether the proposal can be considered sustainable having regard to access to local services.

Reasons

3. The appeal site is located on the north eastern side of Pottersheath Road opposite the junction with Fallow End in the settlement of Pottersheath. It comprises an area of open land between Windmill Cottage to the north west and Pine Lodge to the south east. It is largely enclosed by a low post and rail fence with some sporadic tree and shrub growth. There is a mature hedge along the common boundary with Windmill Cottage.
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4. The proposal seeks full planning permission for 1 x 4 bedroom detached dwelling with a detached double garage, associated parking with turning area to the front, landscaping and a new access. The proposed dwelling would be set back some 17m from Pottersheath Road frontage, some 11.5m from the boundary with Windmill Cottage and some 11.5m from the boundary with Pine Lodge. The proposed dwelling would be of a half-hipped roof design with the upper floor included within the eaves, having a ridge height of some 7.7m and an eaves height of some 4.2m. A boundary hedge and trees is proposed to the common boundary with Pine Lodge.
5. The National Planning Policy Framework (NPPF) published on 27 March 2012 is a material consideration in this case.
6. The statutory development plan includes the saved policies of the North Hertfordshire District Local Plan No 2 with Alterations (NHDLP) (2007). Reference is made to a number of policies in this plan including: Policy 2 - Green Belt; Policy 3 - Settlements within the Green Belt; Policy 26 - Housing Proposals; Policy 29 - Rural Housing Needs; Policy 55 - Car Parking Standards and Policy 57 – Residential Guidelines and Standards.
7. The following Supplementary Planning Documents are relevant to the appeal proposal: the Design SPD (2011) the Planning Obligations SPD (2006) and the Vehicle Parking Provision at New Development SPD (2011).
8. The Council is preparing the North Hertfordshire District Local Plan 2011-2031. A Preferred Options Paper was issued in December 2014 and a Pre-Submission version will be submitted for Examination in 2017 following a consultation exercise late in 2016. I accept that weight may be given to policies in emerging plans. The weight given should be proportionate to the level of objection and the degree of consistency with policies in the NPPF. Given that objections are likely and an Examination is still to be held, an adopted NHDLP 2011-2031 might not be available until late 2017. It follows that I can only give limited weight to the emerging NHDLP 2011-2031 policies in accordance with the advice in paragraph 216 of the NPPF.
9. There is no dispute that the Council cannot demonstrate a 5-year Housing Land Supply (HLS) of deliverable housing sites. The latest calculations are set out in the Strategic Housing Land Availability Assessment (SHLAA) in November 2014. It concludes that the District has between a 2.2 and 3.8 years' supply of housing land. Relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a 5-year supply of deliverable housing sites.¹ Accordingly the default position of paragraph 14 of the NPPF is engaged and this proposal must be assessed in accordance with the presumption in favour of sustainable development. Planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

(a) Whether Inappropriate Development or Not

10. The Proposals Map of the NHDLP 2007 shows that the appeal site lies within the Metropolitan Green Belt, where strict policies of restraint apply. The NPPF confirms at paragraph 79 the longstanding principle that Green Belts are of

¹ Paragraph 49 of the NPPF

great importance and that their essential characteristics are their openness and permanence. Paragraph 80 sets out the 5 purposes of Green Belt and paragraphs 87-88 of the NPPF state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

11. Paragraph 89 of the NPPF states that a LPA should regard the construction of new buildings as inappropriate in Green Belt. It includes a number of exceptions including the following:

"Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan"

12. The Appellant argues that the proposal constitutes appropriate development on two grounds. Firstly, it is claimed that Pottersheath is a small village and an easily identifiable cohesive settlement, which is not limited to sporadic ribbon development and which includes a mix of residential development and commercial uses e.g. Welwyn Equestrian Centre and a day nursery. Secondly, it is averred that the proposal complies with criterion iv of Policy 3 of NHDLP 2007 in that it would comprise a small plot located within the built core of the settlement, which would not result in outward expansion.
13. I accept that the site does border onto residential properties to either side, that there is built development beyond the rear of the site and the site would not result in outward expansion of the settlement. However, the site lies outside of a town or village boundary and is located in the Green Belt. At my site visit I saw that Pottersheath is predominantly a collection of houses and does not constitute a coherent 'village' in the broadest sense of the term. It has no community facilities or services typical of even the smallest villages, such as a church or village hall. It does not constitute one of the exceptions under Policy 3 of the NHDLP 2007 or paragraph 89 of the NPPF. As the location is not within a village boundary, I conclude that the proposal comprises inappropriate development in the Green Belt.

(b) Openness

14. Paragraph 79 of the NPPF states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Indeed, one of the essential characteristics of Green Belts is their openness. Paragraph 80 of the NPPF sets out the 5 purposes of including land in the Green Belt. One of these is to assist in safeguarding the countryside from encroachment. The Appellant considers that any loss of openness would be localised and would not harm the purposes of the Green Belt.
15. Openness means the absence of buildings or development. It is epitomised by the lack of buildings. Openness is capable of being judged by way of the development's physical characteristics, including volume, footprint and spread of development and also the degree to which a reduction in openness would be perceived. Bearing in mind the volume and footprint of the proposed dwelling together with the detached double garage, it is plain to me that this proposal would be perceived as leading to a material reduction in openness in this part of the Green Belt. I conclude that the proposal would not assist in

safeguarding the countryside along this part of Pottersheath Road which would cause significant additional harm to the openness of the Green Belt and to one of the purposes of including land in the Green Belt.

(c) Character and appearance and visual amenities

16. At my site visit I saw that the character of the area is typified by sizeable properties set back from Pottersheath Road and set within spacious plots. I also saw that the appeal site does not have any notable landscape features. In terms of design and form, the proposed dwelling would be substantial but it would have a ridge height (7.7m) and an eaves height (4.2m) both to match Windmill Cottage. There would also be acceptably sized gardens to both the front and to the rear.
17. Nevertheless, when viewed from Pottersheath Road, the proposal would create a development which would have a significant visual impact upon an important gap which provides openness to this part of the Green Belt. On the evidence that is before me the scale of the proposal would be visually intrusive and this would have a significantly damaging effect on the character of the locality. This would be contrary to Policy 2 of NHDLP 2007 and to advice in the NPPF notably Section 7. I conclude that the proposal would be detrimental to the character and appearance of the area and the visual amenities of the Green Belt.

(d) Other considerations

18. The Appellant argues that any perceived additional harm in this case would be modest. It is pointed out, from preparatory work on the emerging NHLP 2011-2013, that it will be necessary to allocate significant areas of existing Green Belt land in order to meet future housing needs. It is claimed that there is an immediate need for further housing sites to be identified given the acknowledged and significant shortfall in the Council's 5-year HLS. The SHLAA accepts (paragraph 5.10) that for current development control purposes the lower figure of 2.2 years is probably the more appropriate to use. More recent household projections from the ONS² have led to an increased objectively assessed housing need of 16,500 dwellings for the plan period. The imposition of a 20% buffer under the NPPF would reduce the 5-year HLS even further.
19. In the absence of a 5-year HLS of deliverable housing sites, the benefits of delivering new homes are greater as the absence of a 5-year HLS is a clear indication that insufficient homes are being delivered within the District to meet anticipated housing needs. The appeal proposal would provide one new dwelling which I accept would make a contribution, albeit a very small one, towards improving the 5-year HLS and also helping to meet the objectively assessed need of 16,500 new homes across the District through the plan period (2011-2031).
20. Furthermore, in terms of economic benefits, the appeal proposal would provide economic uplift through construction activities and by providing one new household in the local area. The additional spending power of a new household would help to support local businesses and services in the wider area. Further economic benefit would arise from the resultant New Homes

² Office for National Statistics

Bonus. Some limited weight in favour of the proposal is afforded by the delivery of one new home on the site and by the economic benefits.

21. I note the comments from local residents and notably those from the occupiers of Pine Lodge in relation to the effect on their living conditions. Concern is expressed about privacy, loss of outlook and dominance of the 2.75m tree screening proposed to the flank boundary with Pine Lodge. The Council considered that the proposed tree screening would harm the living conditions of the occupiers of Pine Lodge, by way of dominance.³ However, an alternative lower boundary treatment of 2m is now proposed and shown on the revised site section drawing submitted with the appeal and which could be secured by way of a condition, which would fully address the concerns in this respect. I accept that acceptable standards of privacy and residential amenity could be achieved for existing and prospective occupiers. I consider the proposal complies with Policy 57 of the NHDLP 2007.
22. Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
23. I have concluded that the proposal would be inappropriate development in the Green Belt for the purposes of national policy. The NPPF clearly states that inappropriate development is harmful to the Green Belt and that substantial weight should be attached to that harm. The proposal would also cause significant additional harm to the openness of the Green Belt and to one of the purposes of including land in the Green Belt in that it would fail to assist in safeguarding the countryside from encroachment. The proposal would be detrimental to the character and appearance of the area and to the visual amenities of the Green Belt. Planning conditions would not overcome the harm which I have described.
24. On the other hand, I have concluded that some limited weight in favour of the proposal is afforded by the delivery of one new home in the context of improving the 5-year HLS and by the economic benefits. Nevertheless, I do not consider that these matters, either separately or cumulatively, would be of sufficient weight to clearly outweigh the substantial harm arising by reason of inappropriateness and the other harm identified. As such, the development cannot be justified on the basis of very special circumstances.

(e) Sustainability

25. In terms of the 3 limbs of sustainable development set out at paragraph 7 of the NPPF I accept that there would be some social and economic benefits arising from the scheme which carry some weight. The proposal would provide for one new household and would generate employment opportunities in construction. It would also provide some support for local rural shops and services. The proposed dwelling would be designed to meet the Lifetime Homes standards but socially it would be unsustainable due to the significant walking distance to the core of the closest village for its

³ Third reason for refusal

services and facilities which is Codicote some 2.6kms accessed on foot or bicycle and nearly 3.5kms if travelling by car. There is a local parade of shops available in Oaklands accessed via the bridge over the A1 but even these are at a distance of around 1km and in my view are likely to be accessed via the private car.

26. In terms of the environmental role, I appreciate that the site is considered to be ecologically poor and so the proposed mitigation and enhancement measures would be welcomed. However, due to the significant distance to the closest services and facilities, occupiers of the proposed development would likely be highly reliant upon the private car to access everyday needs and services. On this basis, I conclude that there would be substantial harm in relation to the three roles of sustainable development in that the development would not be environmentally or socially sustainable.

Conclusion

27. Returning to the main issues identified at the beginning of this decision I conclude that: the proposal is inappropriate development in the Green Belt; that the proposal would cause significant additional harm to the openness of the Green Belt and to one of the purposes of including land in the Green Belt; that the proposal would be detrimental to the character and appearance of the area and the visual amenities of the Green Belt; and the development cannot be justified on the basis of very special circumstances. The proposal is in overall conflict with the development plan and the NPPF. The proposal does not constitute sustainable development and I ascribe significant weight to this in the planning balance. The exercise of the paragraph 14 balance shows that the adverse impacts of granting planning permission 'would significantly and demonstrably outweigh the benefits' when assessed against the policies in the NPPF taken as a whole.
28. Having considered these and all other matters raised, including the case law referred to, I find nothing of sufficient materiality to lead me to a different conclusion. I conclude that the appeal should be dismissed.

Harold Stephens

INSPECTOR