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## Appeal Decision

Site visit made on 16 February 2016

**by Michael Boniface MSc MRTPI**

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

Decision date: 26 February 2016

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**Appeal Ref: APP/B1930/W/15/3137409**

**Roestock Depot, Roestock Lane, Colney Heath, St Albans, Hertfordshire, AL4 0QQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Affinity Water Ltd against the decision of St Albans City & District Council.
  - The application Ref 5/15/0784, dated 18 March 2015, was refused by notice dated 6 July 2015.
  - The development proposed is demolition of existing buildings (retention of existing pumping station) and construction of 30 dwellings with associated works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have used the description of development contained in the appeal forms rather than the planning application as this more succinctly describes the proposal.
3. The application is submitted in outline with all matters reserved for subsequent consideration. I have considered the appeal on this basis.
4. Two additional drawings, an Indicative Layout 'D.01 Rev.J' and Location, Block and Section Plan 'D.02 Rev.C' were submitted in support of the appeal which did not form part of the original planning application. The Council has had the opportunity to comment on these drawings, which include minor alterations with respect to parking provision. I am also mindful that the drawings are indicative in nature and not definitive. I have taken the drawings into account in determining the appeal.
5. During the appeal process a legal agreement was submitted to secure the planning obligations sought by the Council and subject of refusal reasons 4 and 5 of the Council's decision. I consider this matter further below.

### Main Issues

6. The main issues are:
  - (a) Whether the proposal is inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework and whether it would have a greater effect on the openness of the Green Belt;

- (b) Whether sufficient information has been provided to demonstrate that the development would not be at risk of flooding, or cause flooding elsewhere;
- (c) Whether sufficient parking would be provided within the development to avoid adverse impacts in the public highway and nuisance to neighbours’;
- (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.

## Reasons

### *Whether inappropriate development and the effect on openness*

7. Policies 1 and 2 of the LP<sup>1</sup> restrict development in the Green Belt other than for specified purposes. This general approach to Green Belt protection is consistent with that of the National Planning Policy Framework (the Framework) but I note that greater scope for exceptions are set out at paragraph 89 of the Framework and this is an important material consideration.
8. Paragraph 79 of the Framework makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics, those being openness and permanence. Paragraph 87 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. New buildings are to be regarded as inappropriate development, subject to the express exceptions outlined in paragraph 89.
9. Amongst others, these exceptions include limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; and limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (except temporary buildings). However, the latter is subject to the caveat that development would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
10. Given the sites location in a gap between to distinctly separate built-up areas (Bullen’s Green and Roestock) and the scale of the proposed development, which would not be flanked by existing built form on both sides for much of its depth, I do not consider that the development could be appropriately described as limited infilling in a village. This is notwithstanding the presence of houses either side of the site along the road frontage.
11. With regard to the second potential exception, there is agreement between the parties that much of the site constitutes previously developed land in the terms of the Framework. Given the presence of the existing buildings and associated infrastructure, I am satisfied that the site can be properly considered as such, including its curtilage. That said, the Framework is clear that this should not lead to an assumption that the whole of the curtilage should be developed<sup>2</sup>. Having established this position, it is necessary to consider whether the

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<sup>1</sup> City and District of St Albans District Local Plan Review (adopted 1994)

<sup>2</sup> Definition of ‘Previously developed land’ contained at Annex 2 of the Framework

- proposed redevelopment would have a greater impact on openness and the purposes of including land within the Green Belt.
12. The site comprises an operational pumping station which is attached to a substantial building accommodating offices and other uses in connection with the water company's undertakings. Other smaller buildings also occupy the site along with a large area of hard standing and grass covered reservoirs which protrude above ground level. The buildings are utilitarian in appearance with a combination of pitched and flat roof sections. The principal building and the covered reservoirs are located close to one another with large amounts of open space surrounding which is laid to grass and accommodates mature trees.
  13. The existing buildings and structures on the site cover a footprint of 1,481 square metres and cumulatively amount to a volume of 6,830 cubic metres<sup>3</sup>. The buildings range between 5.4m and 7.5m in height according to the appellant. Although the proposal is submitted in outline form with all matters reserved, the appellant has provided a great deal of information, including the expected floor space and volume of the proposed buildings and I have had regard to this as the likely form that any subsequent detailed scheme might take. The proposed buildings would cover a floor space of 1,770 square metres and amount to a volume of 9,301 cubic metres<sup>4</sup>. It is also expected that the proposed buildings would be taller than even the highest parts of the existing building, some comprising 2.5 storeys<sup>5</sup>.
  14. It is clear from the above that the proposed development would result in a significant increase in the footprint and volume of buildings within the site. It is also accepted by the appellant that the development would not be confined to areas of the site that are currently occupied by buildings and that the proposed development would necessarily extend into the currently open grassland within the site.
  15. Removal of the large existing building (with the exception of the pumping station) would in itself be a benefit to openness. Furthermore, the siting and layout of new dwellings could facilitate spaces between and assist in creating a sense of openness, particularly in the context of the parkland design approach suggested, involving open front gardens and large areas of surrounding open space.
  16. However, openness is epitomised by the absence of buildings and this was established in the case of *Timmins & Anor v Gedling Borough Council* [2014] EWHC 654 (Admin). Whilst this case is not comparable to the appeal scheme in terms of the development proposed or the site context, the concept of openness is not dependent on consideration of such matters and can be transferred to the current appeal.
  17. The existing buildings on the site undoubtedly have an impact on openness but the likely increase in volume and spread of mass and bulk across the site into areas currently absent of buildings would result in a greater impact on openness. Therefore, the development would be at odds with the Green Belts essential characteristics, openness and permanence. Furthermore, it would be

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<sup>3</sup> Paragraph 4 of Appellant's Statement and Table contained at Appendix 4 of Statement

<sup>4</sup> Paragraph 12 of the Appellant's Statement

<sup>5</sup> Paragraph 37 of the Appellant's Statement

in conflict with its defined purposes, specifically to assist in safeguarding the countryside from encroachment.

18. For the reasons set out above, the development would be in conflict with the development plan and the Framework. The development does not fall within the exceptions outlined in the Framework and the proposal would be inappropriate development in the Green Belt, which is by definition, harmful. I attach substantial weight to this harm.
19. I have had regard to the extant use on the site and the past intensity of such use, including the potential for large numbers of staff and associated vehicles. However, the hard standing/parking area is located directly in front of the existing building and close to the front of the site, as would any parked vehicles be. As such, they would be well related to the built form of the site and surrounding area and the large areas of open space surrounding would remain unaffected. Therefore, I attach this matter little weight. For the same reason, I attach the potential for an intensified use on the site little weight. Whilst some expansion might be possible under permitted development rights, the existing buildings are referred to as redundant and I am not persuaded that such intensification or expansion is a likely prospect on the site.

#### *Flooding*

20. The site is located in Flood Zone 1 (lowest risk) as defined by the Environment Agency and a Flood Risk Assessment and Drainage Strategy (FRA) (June 2015) accompanies the application. The Council, in consultation with the County Council as Lead Local Flood Authority (LLFA), raised a number of concerns in relation to the FRA in terms of the level of detail provided and the reliability of the document in reaching a conclusion on flood risk though no concerns are raised to the principle of redevelopment.
21. The appeal submissions include a response<sup>6</sup> to the objections raised which seeks to address the concerns. Neither the Council nor the LLFA have provided further comment in relation to this information and so I can only assume that there is no outstanding dispute in relation to this matter. The appellant suggests that a condition could be attached to any planning permission granted which requires detailed information in this respect, including a drainage scheme which would likely be dependent on the eventual scheme proposed through any reserved matters submissions in any case. Based on the information before me, I am satisfied that this matter could be appropriately dealt with by condition in the event that planning permission was granted. As such, I find no conflict with Policies 84 and 84a of the LP, which seek to avoid flooding and ensure appropriate drainage; or the objectives of the Framework. This is a neutral matter in my considerations.

#### *Parking*

22. The proposed development initially involved the provision of 59 parking spaces but this has since been increased to 66 spaces in light of the Council's concern that the level of parking proposed would be insufficient. Furthermore, the appellant states that the number of spaces could be increased to 80 spaces in order to meet the Council's requirement and this could be secured by condition, involving only a modest increase in the amount of hard standing necessary.

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<sup>6</sup> Appendix 17 of the Appellant's Statement

23. The Council relies upon Policy 40 of the LP and its Revised Policies and Standards (2002) which set maximum parking requirements. The Council suggests that these maximum figures should be delivered in this case given the rural and relatively unsustainable location in terms of access to services and facilities. However, the Revised Standards are expressed as maximum requirements with flexibility for lower levels of parking and it seems that the Council's primary concern in this case is for overspill into the surrounding highway network that might cause a nuisance to neighbours'. There is no evidence before me to support such a concern.
24. I have limited information before me as to the level of services and facilities available in the vicinity of the site though the Council notes the presence of a bus service. It seems to me that there is more than sufficient space within the site to provide an appropriate level of parking and that this would be best considered at the reserved matters stage in the context of the detailed house types and layout. Given that the Council's parking requirements are expressed as maxima, the appellant's undertaking to increase the level of parking on the site and the clear ability to do so, I cannot identify any conflict with the development plan at the current stage. The plans before me, including in respect of parking provision are indicative and this is a matter that should be dealt with at a later stage. I am not persuaded that the development would result in additional parking in the public highway or cause nuisance to neighbours'. This is a neutral matter in my considerations.

*Other considerations*

25. The appellant has included a great deal of information regarding the effect of the development on the character and appearance of the area, including a Written Statement dealing with landscape and visual matters (October 2015). This is not a matter which is raised by the Council in any detail and did not form part of the refusal reasons, notwithstanding that some concern is raised regarding the visual amenity of the Green Belt.
26. Matters of character and appearance are distinct from considerations in respect of openness and I have concluded on the latter above, having had regard to the appellant's statement. Although the development would clearly encroach into the countryside by virtue of its expansion beyond the existing built form on the site, I have no reason to disagree that replacement of the existing building and redevelopment of the site would not be harmful to landscape character in the longer term, subject to appropriate landscape mitigation. Some landscape and visual impacts would result but these, overall, would be neutral in my considerations.
27. It is also accepted by the Council that it cannot currently demonstrate a deliverable five year housing land supply in accordance with paragraph 47 of the Framework. As such, there is a general need to increase the availability of housing sites in the Borough in order to meet the Framework's objective to boost significantly the supply of housing.
28. There is dispute between the parties as to the magnitude of the lack of supply and the scale of the deficit is material, but Planning Practice Guidance (PPG) is clear that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the very special circumstances necessary to

justify inappropriate development in the Green Belt<sup>7</sup>. Even if I were to accept the appellant's position that there is a substantial deficit in housing supply, this matter would only attract moderate weight, bearing in mind the very limited contribution that would be made by the 30 units proposed. This is notwithstanding that the site has been identified by the Council, including in its SHLAA, as contributing towards its housing supply as there is no reason why an alternative and suitable form of development should not come forward.

29. Furthermore, despite the lack of a demonstrable five year housing land supply, I do not consider that the Framework's presumption in favour of sustainable development is engaged in this case. Paragraph 14 of the Framework is clear that planning permission should not be granted where specific policies of the Framework indicate that development should be restricted. One example of such a policy is land designated as Green Belt<sup>8</sup>. The site is located in Green Belt and I have identified substantial harm in these regards.
30. The submitted legal agreement would secure the provision of affordable housing that would contribute towards the identified need in the area. This weighs in favour of the development and is a matter to which I attach moderate weight, given the small contribution that would be made by the 11 affordable units proposed.
31. I have had regard to the other potential benefits of the development identified by the appellant including the provision of jobs in the construction industry and for local suppliers, support of strong vibrant communities through the influx of additional population and the provision of open space and I attribute these benefits limited weight.

### **Conclusion**

32. I have identified that the proposed scheme would constitute inappropriate development in the Green Belt for the purposes of the Framework and would harm openness. I have considered the grounds presented in support of the development but together they do not outweigh the harm the scheme would cause. Consequently, the very special circumstances necessary to justify the development have not been demonstrated.
33. In light of the above, I conclude that the appeal should be dismissed.

*Michael Boniface*

INSPECTOR

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<sup>7</sup> Planning Practice guidance Reference ID: 3-034-20141006

<sup>8</sup> Footnote 9 of the Framework