



Appeal Decision

Hearing Held on 7 August 2019

Site visit made on 7 August 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2019

Appeal Ref: APP/B1930/W/18/3212658

Land at Lye Lane, Bricket Wood, St Albans AL2 3TN

- 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 Axess Developments LLP against the decision of St Albans City & District Council.
 - The application Ref 5/17/2411, dated 22 August 2017, was refused by notice dated 28 March 2018.
 - The development proposed is: Remediation of the entire landholding and the creation of a community forest with an area 21.23 ha, with enabling residential development of 16 detached dwellings, associated landscaping, access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal has been made in outline and approval is sought only for access. Appearance, landscaping, layout and scale are reserved for future consideration. At the hearing the main parties agreed all application drawings provided are illustrative or indicative save for 3 drawings from the Highways and Transportation Statement submitted with the appeal¹.
3. These drawings show 3 accesses proposed into the appeal site. Two are specifically identified as being the access to car parks, one at the northern end of Lye Lane and one at the southern end of Lye Lane. The third access is to the residential development and this access would be broadly opposite the junction of Lye Lane with a private road called The Laurels. The locations of the accesses shown on these 3 drawings is consistent with the illustrative masterplan provided with the planning application. Therefore, I am satisfied the development has not changed from the scheme the Council considered and I have based my decision on these 3 drawings.
4. Prior to the hearing the appellant submitted a unilateral undertaking dated 1 August 2019. At the hearing the Council confirmed that the sums of money committed to in this document addressed its concerns relating to local services and sustainable transport provision i.e. the third reason for refusal stated on the Council's decision notice. As such, I have no reason to consider this matter in any further detail.

¹ Drawings 01.1, 01.4 and 01.5 from Appendix A2 of the Highways and Transportation Statement

5. Since the Council's decision was issued the National Planning Policy Framework (the Framework) has been revised. Both main parties have had an opportunity to comment on any relevant implications for the appeal and any comments made have been taken into account in my reasoning.
6. My attention has been drawn to policies of the emerging Local Plan. However, this plan is yet to be examined and I do not know to what extent there are unresolved objections to its policies. Therefore I attach limited weight to these policies.

Main Issues

7. At the hearing it was confirmed that it is common ground between the main parties that the site is within the Green Belt and that the proposal, taken as a whole, involves inappropriate development for the purposes of the Framework and the relevant development plan policy. I concur with that position and therefore, the main issues are:
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposed accesses on the character and appearance of the area;
 - whether the proposal would make adequate provision for affordable housing; and
 - whether any 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

Openness and the Purposes of the Green Belt

8. Policy 1 of the St Albans District Local Plan Review 1994 (the Local Plan) states that permission will not be given for development within the Green Belt except in very special circumstances. The policy contains other exceptions, including specified development locations and purposes, none of which apply to the appeal scheme when considered as a whole. Whilst this policy pre-dates the Framework it is consistent with it.
9. The Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt. The Framework contains a number of exceptions to this none of which are relevant in this case. The Framework states certain other forms of development are not inappropriate, including material changes in the use of land, provided they preserve its openness and do not conflict with the purposes of including land within in.
10. As set out in the Framework, the essential characteristics of Green Belts are their openness and permanence. The appeal scheme includes 16 detached dwellings and 2 car parks to serve a community forest which is proposed as part of the scheme. The submission envisages each car park would have 15 spaces and up to 30 overflow spaces on adjacent land.

11. The proposed dwellings are described in the application as having 4+ bedrooms each. As such they would be substantial in size. The outline nature of the proposal means the visual effect of the development cannot be precisely determined at this stage. However, the location of the car parks and dwellings is constrained to at least some extent by the location of their proposed accesses from Lye Lane.
12. It is likely views of the car parks (and the cars occupying them) and the proposed dwellings would be achieved looking through the proposed accesses, looking through vegetation along Lye Lane, looking from locations around the site itself and looking from neighbouring land including the grounds of Tenterden House and Allington Court which adjoin the appeal site. Consequently, I am not satisfied there would be no visual harm to the openness of the Green Belt as a result of the development.
13. The appellant considers views of the development would be limited and screened by landscaping and retained vegetation. However, landscaping is a reserved matter, at least some screening would be deciduous and, as was discussed at the hearing, new planting may take 15 years to become established. As such, based on the information available to me I am not satisfied the visual harm would be limited.
14. Houses exist on the opposite side of Lye Lane from the appeal site. However, as I saw on my site visit, with the exception of an electricity substation and pylon, the appeal site appears entirely free of built development. In terms of the spatial effect of the development on openness, the appeal scheme would extend built development into the appeal site. In this respect, the appeal scheme would result in encroachment into the countryside, in conflict with one of the purposes of the Green Belt.
15. The appellant considers that the site has a degraded nature and so is not typical of the wider countryside. Whilst this may be true for parts of the site, based on my observations and the information before me, I do not accept this is a true reflection of the entire site. Even if I am wrong in this regard, it does not mean that the site or part of it should be developed or that the site does not serve a legitimate purpose of providing relief from development.
16. The appellant also considers the proposed residential development would be well contained by adjacent built form and public open space ensuring that the wider countryside beyond is safeguarded. In addition, at the hearing it was stated that the areas of hardstanding/buildings would occupy a limited percentage of the overall site. I do not accept these arguments given the limited amount of built development which exists south of Lye Lane and given such arguments could be repeated throughout the Green Belt including by identifying a large land parcel and proposing development on only part of it.
17. I conclude on this main issue the appeal scheme would significantly decrease the openness of the Green Belt and would not comply with Policy 1 of the Local Plan or the Framework in this regard. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Character and Appearance

18. Lye Lane is a narrow country lane lacking in street lighting and footways. Along parts of the lane the canopies of existing trees and hedgerows on either side extend across the carriageway and meet overhead. These qualities give the lane a rural, wooded character, despite road noise from the nearby M25 and North Orbital Road. Each of the accesses proposed into the appeal site would require the removal of existing vegetation.
19. At the proposed northern car park a clump of trees to the right of the proposed entrance would have to be removed and hedges either side of the entrance would have to be cut back from the road or replaced to provide the requisite visibility splay either side of the access. At this location there is already a significant gap in the vegetation at the road side and space for two vehicles to pass. As such the slight widening of the gap and the lane in this location would not have a significant effect on the character or appearance of the lane and nor would the cutting back or replacement of the hedges.
20. At the proposed southern car park a gap would have to be formed in the hedge to provide an entrance and a section of hedge removed and replaced either side of the entrance. At this location buildings exist immediately opposite the proposed entrance, separated from the road by hedges significantly lower than those on the opposite side of the road. As such the lane does not have the enclosed character that exists further along the lane and I am satisfied the proposed removal of vegetation here would not harm the character or appearance of the lane.
21. At the proposed access to the residential development, the lane is narrow and enclosed as a result of vegetation growing on embankments either side of the road meeting above the carriageway. To the left of the proposed entrance the lane curves round to the right. As such, to provide the required visibility splay, significantly more vegetation would have to be removed here than at either of the car park entrances. The removal of vegetation proposed here would be very apparent because of the current narrow and enclosed wooded character of the lane at this point.
22. Whilst I have not found harm in respect of the car park accesses, overall, I conclude the proposed access arrangements would harm the character and appearance of the area because of the extent of vegetation removal at the residential access. This would not comply with Policies 69, 70 and 74 of the Local Plan. Together these seek that development takes into account the character of the surroundings and that the retention of important landscape features such as hedgerows are retained.

Affordable Housing

23. For schemes of this size, Policy 7A of the Local Plan seeks that an element of affordable housing is provided on site. The Council's Affordable Housing Supplementary Planning Guidance 2004 (the SPG) contains a target of 35% affordable housing being provided by unit numbers.
24. The appellant has offered a sum of £1,294,189 to the Council to enable affordable housing to be built or provided on another site in the district. The evidence indicates this would be equivalent to approximately half of one of the proposed houses i.e. a proportion of approximately 3% affordable housing. This

is below the target contained within the SPG and would not deliver affordable housing on site.

25. At the hearing the Council confirmed there is no viability dispute over the sum proposed. However, as the scheme would not deliver affordable housing on site it does not comply with Policy 7A or the aim of the SPG in this regard. So I conclude on this main issue the proposal would not make adequate provision for affordable housing, notwithstanding that affordable housing that may be delivered as a result of the proposed contribution would be beneficial.

Other Considerations

26. The parts of the site not proposed for residential development are to be developed as a community forest with public access for recreational purposes. The evidence indicates the appeal site has been subject to anti-social behaviour including quad biking and motorcycling as well as fly-tipping.
27. A site investigation has confirmed the presence of hydrocarbons and asbestos fibres on the site indicating there is some risk to human health if there is direct contact. The appellant proposes remediation of the site as part of the appeal development. However, the appeal site is currently vacant private land with no public access.
28. At the hearing it was indicated that contaminants on the land had become airborne but that this was because of disturbance by people entering the land without permission, including with vehicles. Therefore, providing the land is properly secured I am satisfied that no significant pollutant linkages exist and remediation of the land is not necessary to prevent direct contact between contaminants and humans. As such, I give the remediation of the land limited weight in my decision. My attention has been drawn to paragraph 118(c) in respect of this issue but this relates to brownfield land and so I do not consider it relevant in this case.
29. As I saw at my site visit, access on to the land is currently possible from the public highway. This could be rectified relatively easily with fencing to prevent unauthorised access. At the hearing the main parties agreed 2m high fencing, set back from the public highway, can be erected under permitted development. I see no reason why this would not be the case here to secure the site. Accordingly, I do not consider the appeal proposal is necessary to address the anti-social behaviour which has been reported and I therefore give this consideration limited weight.
30. The site has been described as an eyesore but this is not apparent from the public highway and, having walked around and across the site, this does not reflect my experience of the site itself either. Evidence of fly-tipping was relatively limited, particularly given the substantial size of the site. I am therefore not satisfied the appeal scheme is necessary to address existing visual harm and so I give this consideration limited weight.
31. In terms of the community forest, my attention has been drawn to Policy 143A of the Local Plan which generally supports the establishment of Watling Chase Community Forest which the appeal site falls within. But this policy states that proposals should be consistent with other policies of the Local Plan including Green Belt policy (i.e. Policy 1 discussed above). So it is not the case that the proposal complies with Policy 143A.

32. The evidence indicates there is no urgent unmet need for the proposed community forest and that there are other areas of publicly accessible open space in the vicinity of the appeal site. So whilst the provision of the community forest would provide new recreational opportunities and this would be beneficial, I give this consideration limited weight.
33. The community forest would include grassland, woodland and ponds which would be managed by the Land Trust. They would be responsible for its long term management and maintenance. This would inevitably benefit wildlife and result in ecological enhancements, biodiversity benefits and an enhancement of the landscape (in accordance with Policy 104 of the Local Plan). The forest would also include footways and cycle paths to provide alternative safe local connections which avoid Lye Lane as well as improvements to the A405/Lye Lane junction and its crossings. These are benefits of the scheme and I give them significant weight in my decision.
34. It is proposed that the community forest is transferred to the Land Trust. At the hearing the appellant explained this would extinguish development pressure on the land by putting it in control of a body with no aspiration to develop it. But I do not see this is necessary given the control over development that exists through the planning system, particularly given the land is in the Green Belt and I have seen no evidence that it will be removed from the Green Belt, so I give this consideration limited weight.
35. My attention has been drawn to Council Tax payments and infrastructure contributions that would arise from the scheme. But these are mitigation for the development so I consider them to be neutral points and not benefits of the scheme.
36. The proposal would result in the provision of 16 new dwellings to contribute to the supply of housing in a district where a 5 year supply of land for housing cannot be demonstrated. The proposal would generate employment during construction and increased spending to support local services and facilities that the site has relatively good access to. The scheme would also generate New Homes Bonus payments. These are all benefits of the scheme to which I give significant weight.
37. However, in accordance with the Framework, I must give substantial weight to any harm to the Green Belt. Whilst there are factors noted above which weigh in favour of the scheme, I do not consider that the harm to the Green Belt together with the other harm identified above (in respect of character and appearance and affordable housing), is clearly outweighed by other considerations, including those noted above. I therefore find the very special circumstances necessary to justify the development do not exist.

Conclusion

38. The appeal development is inappropriate development in the terms set out in the Framework and the development plan. It would lead to a loss of openness in the Green Belt. This harm in this case is not outweighed by other considerations so as to amount to very special circumstances. Whilst the Council may not be able to demonstrate a 5 year supply of housing land, in this case the conflict with the Green Belt policies of the Framework provide a clear reason for refusing the development. For all of the reasons given above and

taking into account all other matters raised, I conclude that the appeal should be dismissed.

L Perkins

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Marie Convery	Land Trust
Mike England	Iceni Projects
Silke Gruner	CSA Environmental
Jago Keen	Keen Consultants
Jim Martin	Martin Arnold
Lorna O'Carroll	Iceni Projects
Steven Rowan	EAME
James Waterhouse	Iceni Projects

FOR THE LOCAL PLANNING AUTHORITY:

Phillip Hughes	PHD Chartered Town Planners
BA(Hons) MRTPI DipMan MCIM	
Andrew Wright	St Albans City & District Council
BA MA MCD MRTPI	

INTERESTED PERSONS:

Dianah Ellis	Bricket Wood Residents' Association
John Bell	St Stephen Parish Council

DOCUMENT SUBMITTED

Environment Agency letter dated 19 September 2017
Ref NE/2017/127491/01-L01