



Appeal Decision

Site visit made on 24 April 2019

by Mark Reynolds BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Appeal Ref: APP/W1905/W/19/3220009

Springfield and Westgate Nursery, Crouch Lane, Goffs Oak, EN7 6TN

- 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 Mr Dean Williamson of LW Developments Ltd against the decision of Broxbourne Borough Council.
 - The application Ref 07/18/0027/O, dated 9 January 2018, was refused by notice dated 12 July 2018.
 - The development proposed is outline planning application for the demolition of buildings and provision of up to 17 residential self-build plots.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved. A site plan and proposed plot layout plan were submitted along with a design code document showing a layout and possible building typologies. I am treating these materials as illustrative only, for the purposes of this appeal.
3. The appellant has referenced that a planning obligation would be submitted within 7 weeks of the appeal start date, securing an off-site affordable housing contribution and a footpath connection to Goffs Oak Village. I have not received the referenced planning obligation and make the decision on this basis.

Main Issues

4. The main issues are;
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect on the openness and purposes of the Green Belt;
 - Whether the surface water drainage arrangements are acceptable;
 - Whether the proposal would make adequate provision for affordable housing;
 - If the proposal would be inappropriate development, whether the harm to the Green Belt, 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 the proposal would be inappropriate development

5. The site lies within the Metropolitan Green Belt. Paragraph 133 of the National Planning Policy Framework (the Framework) states that the essential characteristics of Green Belts are their permanence and openness. Paragraph 145 states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development, however there are exceptions, but in this case it is common ground that the proposed development does not fall within any of the exception categories and the proposal is inappropriate development.
6. Policy GBC2 of the Council's Local Plan Second Review 2001-2011 (2005) is not wholly consistent with and significantly predates the Framework. However, in respect of the type of development being proposed, GBC2 is generally consistent with the Framework and I therefore attach significant weight to the policy despite its age. Framework paragraph 143 advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I therefore attach significant weight to this factor, and to the fact that the development is in conflict with LP policy GBC2.

The effect on the openness and the purposes of the Green Belt

7. Neither the Committee meeting minutes nor the Council's appeal statement advance any argument that the appeal proposals would cause harm to the Green Belt other than by reason of being inappropriate development by definition. The appellant's contention is that a significant reduction in built form at the site forms a constituent part of the case for very special circumstances. The majority of buildings on site are glasshouses which, by their nature, allow a significant amount of visual permeability. They are low level buildings arranged in dense developed groupings, all of which reduce the impact they have on openness.
8. The proposed dwellings would however be up to 2.5 storeys in height and positioned spread more evenly around the site. The Officer Report (OR) noted that subject to the right controls through design coding the proposal had the potential to increase openness. I agree that 17 custom-build dwellings could be achieved on site resulting in an increase in the spatial aspect of openness across the site. However, the appeal site is visually well contained particularly from Crouch Lane and the introduction of significantly taller, visually impermeable, structures would increase the prominence of the site as a developed entity in considering the visual aspect of openness.
9. This must be balanced against the overall decrease in buildings and hard standing at the site. Overall, I consider the development would have a neutral impact on openness when balancing these two factors. It is not alleged that harm would result to any of the purposes of the Green Belt in this case and I have no reason to disagree with this assessment.

Surface water drainage

10. Concerns have been raised by the appellant about the origins of the reason for refusal attached to the permission, this is however a procedural matter for the

Council. I must consider the acceptability of the surface water drainage proposals given it forms a ground for refusal.

11. The proposed surface water drainage strategy includes an indicative surface water drainage layout for the site. It acknowledges that further detailed design modelling would be required including refinement because the details would be likely to change dependent upon the final layout and design of the proposal. The Flood Risk Assessment (FRA) does though conclude that the majority of the site's susceptibility to surface water flooding is assessed to be very low. The OR noted that conditions may be used to ensure that acceptable details of surface water drainage be provided.
12. The FRA does not sufficiently explain the reason behind underground tanks being proposed and I find that more widespread use of sustainable drainage systems (SUDs) should be considered before underground tanks are proposed. Alternatively, further explanation would be required as to why this is not possible. This notwithstanding, as in an outline planning application with all matters reserved, the layout of the development would not be fixed were the appeal to succeed. Any reserved matters submission would be required to justify the surface water drainage option to be pursued.
13. LP policy SUS18 requires development to ensure that surface water disposal solutions are sustainable, avoiding run-off increasing the risk of unacceptable flooding offsite. The FRA demonstrates that there is at least one technical solution to avoid increasing surface water runoff from the site. On this basis I do not find the proposal to be in conflict with LP policy SUS18.

Affordable housing

14. The appeal proposals comprise a 'major' development and the OR sought an off-site affordable housing contribution on the basis of 40% of the residential units multiplied by 1/3 of the value of a typical house in the development. The Council is unable to demonstrate a 5 year housing land supply at present and a proportion of this unmet need will relate to affordable housing. The appeal proposals in failing to secure a contribution towards affordable housing would be contrary to LP policy H1 and I attach significant weight to this as an area of other harm that would result from the appeal proposals.

Other considerations

15. I turn now to address other considerations to determine whether they might, potentially, clearly outweigh the identified harm arising from inappropriate development in the Green Belt and the lack of affordable housing provision.
16. It is not disputed that the Council is unable to demonstrate a five year supply of deliverable housing sites and at the time of the appeal the latest Annual Monitoring Report for 2016-2017 gives Broxbourne a 3.19 year supply. The proposal would deliver 17 dwellings making a moderate contribution towards supply. The Planning Practice Guidance¹ advises however that "*an unmet need for housing is unlikely to outweigh the harm to the Green Belt and any other harm to constitute the very special circumstances justifying inappropriate development on a site within the Green Belt*". This limits the weight I can afford this benefit, to which I attach moderate weight.

¹ Planning Practice Guidance paragraph 3-034-201410-6

17. The fact that custom-build housing is being proposed which could assist in meeting the needs of those on the Council's self-build register and comprises a particular type of housing the Government is seeking to promote is a benefit I attach moderate weight to. The appeal site is argued to be no longer commercially viable and a redevelopment, it is argued, would provide a more efficient and sustainable use of the land and remediate a currently contaminated site. I have not been presented with detailed evidence to support the argument that, in effect, this is the only likely productive use of the site which could address these problems. The Broxbourne Glasshouse Study (2013) considered the capability of the site restarting in its current use. Nonetheless, I do accept that the site has been unused for some considerable time. I afford moderate weight to this consideration. There would also be a moderate economic benefit in terms of the construction of the development.
18. I have already concluded that in terms of openness, overall the appeal proposals would have a neutral effect. I only therefore attach limited weight to the argument that openness would be enhanced. It is argued that the proposal will enhance the site's appearance. I find however that the site is not visually prominent or harmful in its current state and that this is the type of use which commonly occurs in the countryside in this area so I do not find it incongruous in its appearance and I attribute limited weight to this argument. I do not therefore conclude that a residential redevelopment of the site will significantly improve its appearance.
19. The Broxbourne Pre-submission Local Plan is currently at examination and includes policy GB2 which would allow for the redevelopment of derelict glass house sites for low density self-build housing subject to a number of criteria being satisfied. The Examination has not yet been completed and I am advised that there have been objections to this particular policy. The Council argue that it is inconsistent with the Framework, which is a view I concur with. The Inspector's note relied upon here is a brief summary of some of the main issues from the Hearing sessions and does not constitute the full detailed assessment which will follow in the Inspector's Report.
20. Having regard to paragraph 48 of the Framework, whilst the plan is at an advanced stage, given that unresolved objections remain and the policy does not appear to be consistent with the Framework I attach only limited weight to this policy which does not form part of the development plan and could be subject to change. Whilst the Council did not reference this policy within the reason for refusal, they have provided evidence through the appeal process explaining their position on the policy.
21. I have been presented with limited details of 4 other Green Belt sites which have either been approved, or have a resolution to be approved, comprising the redevelopment of former nurseries. I do not have full details of the circumstances of these cases and I cannot therefore be confident that these cases are direct parallels, as is argued. If the cases were approved on the basis that very special circumstances were found to exist then these would be likely to be very fact specific cases and not necessarily directly comparable to the appeal proposal. I can only attribute limited weight to these other cases in this determination which must be led by the circumstances of the case.

Other Matters

22. The Council's decision departed from the reasoning and recommendation of the officers of the Council. The elected Members of the Council were not however duty bound to accept the officer recommendation. It is argued that the Council have been inconsistent in referencing emerging policies in the reasons for refusal. I have had regard to both existing development plan and emerging policies in my assessment of the appeal.
23. It is put that as the LP housing policies do not reference self-build developments, these policies of the LP are out of date and paragraph 11 of the NPPF is engaged. I do not consider this to be the case because the housing policies do not seek to exclude self-build developments from coming forward. In any event, footnote 6 to this paragraph lists land designated as Green Belt as an exception. In the Green Belt if the application of policies in the Framework provides a clear reason for refusal, the so called 'tilted balance' does not apply.
24. The appellant was proposing to provide a footpath link to Goffs Oak village. I have not been provided with details of the route of the suggested link and I do not have enough information to determine whether this would be necessary having regard to the CIL regulation 122 tests. As no S106 has been submitted to secure this I have not given weight to the potential benefit of its delivery.

Conclusion

25. I have found that the proposal would be inappropriate development, to which I attach substantial weight. In addition, I attach substantial weight to the lack of provision of affordable housing. I have given moderate weight to the provision of new custom-build housing and to the benefit of reusing a currently unused site. The potential compliance with emerging LP policy GB2, I give limited weight to and I have found a neutral impact on openness would result which does not weigh in favour of the development.
26. Taken together, these other considerations do not clearly outweigh the harm that the proposal would cause. Consequently, these are not the very special circumstances necessary to justify inappropriate development in the Green Belt. For the reasons given above, and having regard to all other matters raised, the proposal is in conflict with the development plan and the Framework and there are no material considerations which outweigh that conflict. I therefore conclude that the appeal should be dismissed.

Mark Reynolds

Inspector