



Appeal Decision

Site visit made on 4 February 2014

by S Stevens BSc (Hons) MSc DipTP DMS MCMI MRTPI

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

Decision date: 17 April 2014

Appeal Ref: APP/X1925/A/13/2205699

Land adjacent to 20 Maydencroft Lane, Gosmore, Hitchin, Herts SG4 7QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Miss Samantha Moore against North Hertfordshire District Council.
 - The application Ref 13/01524/1, is dated 25 June 2013.
 - The development proposed was originally described on the application form as "new two bed detached cottage for myself. New self build dwelling on previously developed land with existing parking, garage and access off existing shared drive also serving Gosmore Nursing Home and Gosmore End Cottage".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Miss Samantha Moore against North Hertfordshire District Council. This application will be the subject of a separate Decision.

Procedural matters

3. The Council states that had it been in a position to determine the application, it would have refused planning permission for reasons relating to: (1) inappropriate development in the Green Belt, (2) the harm to the Gosmore Conservation Area and (3) the unsustainable location of the site.
4. The application form shows the address as 22 Maydencroft Lane. However the Council states no such address exists. The Council amended the site address to Land adjacent to 20 Maydencroft Road as all previous matters relating to the appeal site were recorded under this address. I also note that previous appeals relating to the site also used the address of Land adjacent to No 20. To avoid confusion I will also use this address in this Decision.
5. A Unilateral Undertaking has been submitted by the appellant. However, the Council states no planning obligations are required in respect of the proposed development, due to the small number of residential units proposed and the lack of identified capital projects requiring funding in the area. I shall deal with the appeal on that basis.
6. Prior to the determination of the appeal the Planning Practice Guidance (PPG) came into force on 6 March 2014. This updates and refreshes national guidance and cancels a number of guidance documents. The content of the

Guidance has been considered but in the light of the facts of the case the document does not alter my conclusions.

Main Issues

7. The main issues are whether:

- the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- the effect of the development on the openness of the Green Belt, character and appearance of the area and the Gosmore Conservation Area; and
- 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

8. The appeal site is located towards the western edge of the small village of Gosmore. To the eastern side are some small cottages and to the north is the Gosmore Nursing Home which is set well back from the Lane and is generally well screened by trees. To the west of the site are the grounds of the nursing home which are mainly hidden behind a wall. Opposite the site on the other side of the Lane is open grazing land and stables with views the across the countryside. The appeal site has a brick wall to the front facing the Lane and fencing to the side and rear. The site is located within the Gosmore Conservation Area.

Whether the proposal is inappropriate development within the Green Belt

9. The site is located within the Green Belt, as defined in the North Hertfordshire District Council District Local Plan No 2 with Alterations (LP). The appellant says the inclusion of the site within the Green Belt is a mistake and that the Council has failed to review the Green Belt boundary. Furthermore, she states the village is shortly to be excluded from the Green Belt.
10. Paragraphs 83-85 of the Framework gives guidance on defining boundaries but it is not the role of planning appeals to redefine boundaries established through the Development Plan process. Nor is there any evidence to suggest the village will be removed from the Green Belt. Therefore the appeal site remains within the Green Belt and in such circumstances the proposal must be judged against Section 9 of the Framework and policies set out in the LP that relate to the Green Belt.
11. The Framework reaffirms that the Government attaches great importance to Green Belts and the fundamental aim is to prevent urban sprawl by keeping the land permanently open, safeguarding the countryside from encroachment and that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
12. Paragraph 89 of the Framework states the construction of new buildings is regarded as inappropriate development in the Green Belt but there are a number of exceptions set out. One such exception is limited infilling in villages, and limited affordable housing for community needs under policies set out in

the development plan. The other exception relevant to this appeal is for limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

13. Policy 2 of the LP reflects the Framework's provisions. It states that planning permission will not be granted for development in the Green Belt except where it constitutes 'appropriate development'. LP Policy 3 lists a number of exceptions which would qualify as appropriate development, including development that meets an identified rural housing need or a single dwelling on a small plot located within the built core of the settlement which will not result in the outward expansion of the settlement or have any other adverse impact on the local environment or other policy aims within the Green Belt.
14. The appeal site lies at the outer edge of Gosmore. The settlement core is not defined but previous appeals have held that the site is not within the core of the village. There are some existing buildings in the vicinity of the appeal site including Nos 19 and 20 and Hindsmout Cottage and the Nursing Home which is a substantial building set well back from the Lane and screened by a wall. There is also a garage built adjacent to the appeal site which the Council says is unauthorised and currently the subject of enforcement action. From my visit when travelling out of the village along the Lane the character changes from a built up frontage to an open frontage after No 20. Whilst the appeal site now has a high brick wall along its frontage it does retain an undeveloped frontage and clearly marks a transition from the more built up core. I therefore conclude the site does not lie within the core of the village.
15. Furthermore, infill development is commonly understood to mean development within a built up frontage. This part of the Lane is not 'built up' as the nursing home is set far back from the Lane and fronts onto a separate access road sited north of Maydencroft Lane. The home has extensive walled gardens which abut the Lane and beyond this are sporadic structures. The proposed development would not fill a small gap in an otherwise built up frontage and therefore would not be 'infill' development for the purposes of applying the exceptions set out in the Framework or LP Policy 3.
16. The appellant states the site was previously developed and therefore constitutes a brownfield site. The application form states the building works started on 19 August 2005. However, the site is not previously developed land, as defined in the glossary of the NPPF. Furthermore, this has also been established in a number of appeals relating to works to erect 2 unauthorised dwellings that commenced in 2005. The appeals upheld enforcement notices and required the removal of the unauthorised partially constructed dwellings and associated works¹. In determining these appeals the Inspector specifically required the removal of all visible evidence of the unauthorised development so that it could not be argued in the future that the site had previously been developed. It seems clear that the appellant is now trying to rely on former unauthorised developments to support the assertion that the site has been previously developed. From the evidence and from my inspection I conclude the site does not constitute previously developed land and therefore the provisions set out in the Framework do not apply.

¹ Appeal References: APP/X1925/C/11218437, 2158435 and 2158438 dated 7 September 2012

17. I therefore conclude that the proposal constitutes inappropriate development which is, by definition harmful to the Green Belt. The proposal is therefore contrary to LP Policy 2 and to the Framework.

Character and appearance of the area

18. Openness is an essential characteristic of the Green Belt. The site is also within a conservation area where there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
19. From my visit the appeal site marks the change from the built up urban frontage to an open rural frontage. Whilst there is a high wall along the front of the appeal site this part of the Lane retains its open and rural character. This openness and rural nature of the site makes an important contribution to the character and appearance of the conservation area. The proposed two storey dwelling on the site would clearly be visible from the Lane and from the open countryside opposite the site. The proposed development would extend the built up frontage along the Lane which would encroach into the countryside, contrary to one of the key purposes of the Green Belt set out in the Framework. Consequently, there would be further harm from this in addition to the harm I have identified in respect of the proposal being inappropriate development in the Green Belt.
20. The Council has not specifically commented on the design of the proposed dwelling since it is the principle of the development that it is concerned with. The appellant states the design and scale reflects that of surrounding buildings; planting would improve the impact along the Lane; and that it would make a positive contribution to the street scene and area as the site current detracts from the area. The proposed building is not unattractive but the height and bulk of the proposed dwelling would result in an extra structure that would be visible and which would contribute to the urbanisation of the rural part of the Lane. The more urban, built up character would detract from the character and appearance of the conservation area. The site is largely hidden behind the brick wall and I do not consider the site detracts from the character or appearance of the area or the conservation area.
21. I therefore conclude the proposal would fail to preserve or enhance the character and appearance of the Gosmore Conservation Area. Although the harm would be less than substantial, the public benefits of the proposal would not outweigh the harm. The proposal would also reduce the openness of the Green Belt and affect the rural character and appearance of the Green Belt. Consequently, the proposed development conflicts with LP Policy 57 which seeks, amongst other criteria, to protect the established character of an area.

Other considerations

22. The Council argues the site is not in a sustainable location as there is a lack of essential services in the locality resulting in any occupants of the proposed house being highly reliant on private transport. The appellant has provided details of local services, facilities and public transport. From the information submitted there are some limited local services and facilities but I am of the view that any occupants would need to rely on other settlements to satisfy many of their needs. However, given that there are strong grounds for dismissing the appeal with regard to the inappropriate development in the

Green Belt and harm to the conservation area this is not an issue which is decisive in my considerations. Even if I were to conclude that the site was in a sustainable location, this does not alter my conclusions regarding the harm arising, on the other two main issues I have identified.

23. Reference has been made to other sites that have been developed and to appeals and legal cases. Many of these relate to sites outside the District where development policies vary and the site, type and scale of the developments differs and I can not be sure that they are directly comparable to this appeal proposal. In any case, I must determine this appeal on its planning merits.
24. The appellant also states the proposal would be a self build property and would create an affordable home enabling her to remain in the village. The proposal would make a very small contribution to the District's housing supply and local economy. No evidence has been submitted that indicates the proposed dwelling would meet the criteria for affordable housing as set out in the Framework. Furthermore, *The Planning System: General Principles* indicates that personal circumstances will seldom outweigh general planning considerations. The proposed development would be permanent whilst the personal circumstances of the applicant may change. Consequently whilst the proposal would be of considerable benefit to the appellant, this does not outweigh the harm identified.
25. I also note there is a degree of local support for the proposed development. However, planning legislation requires that the appeal should be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, the local support does not outweigh the harm identified. Concern about how Council dealt with the application and to delays in revising the development plan are not matters for this appeal.

Conclusion

26. The proposal is inappropriate development in the Green Belt which is by definition harmful, and to which I attach substantial weight. In addition, the proposal would reduce the openness of the Green Belt and affect the rural character and appearance of the Green Belt and the conservation area. Against this the considerations put forward in favour of the proposal fail to clearly outweigh the harm I have identified. Consequently, very special circumstances do not exist and the proposal conflicts with LP Policy 2 and the provisions of the Framework. I therefore conclude that the appeal should be dismissed.

Sarah Stevens

INSPECTOR