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# Appeal Decision

Site visit made on 29 July 2024

**by P Terceiro BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 October 2024**

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**Appeal Ref: APP/R5510/W/24/3338381**

**Whitehouse Building, Northwood Road, Harefield, Hillingdon UB9 6PT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Peter Timms against the decision of the Council of the London Borough of Hillingdon.
  - The application Ref is 66100/APP/2023/1506.
  - The development proposed is the demolition of existing structures and erection of a replacement single-storey bungalow, hardstanding, access track and associated hard and soft landscaping.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Following the submission of the appeal, a draft revision to the National Planning Policy Framework (the Framework) was issued for consultation alongside a Written Ministerial Statement. Some of the proposed changes, which relate to development within the Green Belt, might have a bearing on the matters subject of dispute in this appeal. On this basis, the parties have been invited to provide comments on these matters. I have considered any comments received in my decision.

## Main Issues

3. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect on the openness of the Green Belt;
  - whether the proposal would be in a suitable location for housing, having regard to access to services, facilities and infrastructure;
  - the effect of the proposed development on the character and appearance of the area, including its effect on trees;
  - the effect of the proposed development on ecology; and
  - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## Reasons

### *Inappropriate development*

4. The appeal site is located within the Green Belt. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
5. Paragraph 154 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. One such exception, of relevance in this case, at Paragraph 154g) is the partial or complete re-development of previously developed land, whether redundant or in continuous use, which would not have a greater impact on the openness of the Green Belt than the existing development.
6. Policy G2 of the London Plan 2021 (LP) also seeks to protect Green Belt land from inappropriate development. In addition, Policy EM2 of the Council's Local Plan: Part One - Strategic Policies 2012 (LP1) stipulates, amongst other things, that any proposals for development in the Green Belt will be assessed against national and London Plan policies. The London Plan policies are broadly consistent with the Framework.
7. Policy DMEI4 of the Council's Local Plan: Part Two – Development Management Policies 2020 (LP2) is broadly consistent with the Framework insofar as it advises, amongst other things, that the redevelopment on sites in the Green Belt will be permitted only where the proposal would not have a greater impact on the openness of the Green Belt and the purposes of including land within it, subject to various criteria.
8. The matters relevant to openness are a matter of planning judgement, and the openness of the Green Belt has a spatial aspect as well as a visual aspect. Although the appeal site has limited visibility from public vantage points, the absence of public views does not in itself mean that there would be no impact on the openness of the Green Belt.
9. The appeal site accommodates a main single storey outbuilding, which has a lawful use as store, garage, office and part-time residence for up to 50 days a year, as well as a small shed. The red line extends to include the adjacent paddock, where an existing stable block is located. The proposal would involve the demolition of all these buildings and structures and their replacement with a bungalow.
10. There is no dispute between the parties that the proposal would involve the redevelopment of previously developed land (PDL), although there is disagreement as to whether the small outbuilding and stable block would constitute PDL. Even if I were to consider these smaller outbuildings as PDL, the bungalow would represent an increase in footprint of about 35% over and above the existing buildings, thereby indicating that the proposal would be more substantial than the existing built form on site.
11. The existing main building is a single storey modest structure with a shallow pitched roof design and limited height. Similarly, the shed and stable block are limited in their size. These outbuildings are spread across the site, and their siting close to the boundaries, together with their individually modest height and bulk, limits their impact on the spatial openness of the Green Belt.

12. The proposal would consolidate the built form on site and its single storey gable-end design would limit its overall bulk to some extent. Still, the bungalow would be considerably larger, taller and of a greater bulk and site coverage than the existing built form. Further, the proposed dwelling would occupy a central position within the plot, away from the site boundaries, so it would be more exposed than the existing outbuildings. Although the visual effects of the proposal would be limited by the amount of screening around the site, the effect on the spatial aspect of openness would be significant.
13. One of the five purposes of the Green Belt identified by Paragraph 143 of the Framework is relevant to the proposal, which is to assist in safeguarding the countryside from encroachment. Although the proposal would consolidate the built form on site, it would have a larger footprint than the existing outbuildings. As such, there would be a net increase in built form and therefore encroachment of development into the Green Belt.
14. Overall, the proposal would have a greater impact on the openness of the Green Belt than the existing development. The proposal would not benefit from an exception under paragraph 154g) and would therefore represent inappropriate development in the Green Belt. As set out in the Framework, I give substantial weight to this harm.

#### *Suitability of location*

15. LP2 Policy DMT1 states that developments within the borough are required to be accessible by public transport, walking and cycling from the services and facilities necessary to support the development.
16. The site has a very poor Public Transport Access Level (PTAL) rate of 1, which indicates its isolation from public transport. Indeed, the Council advises that the buses operate on a limited frequency from the bus stop closest to the site, which is not disputed by the appellant. Further, there is no tube or train station within reasonable walking distance.
17. Although the distance between the site and Harefield town centre might be considered walkable, this is a local centre with limited shops and services. Moreover, the highway leading up the site is poorly lit, which reduces its attractiveness for walking and cycling. Reference is made to a public footpath, but it is unclear from the evidence if this footpath leads to an urban area.
18. Whilst I recognise that there is existing residential development in the area with poor access to services, this does not negate the policy requirement for new development to be accessible to sustainable transport options.
19. Consequently, the appeal site would not provide a suitable location for new housing, having regard to its accessibility to services, facilities and infrastructure. The proposal would conflict with LP2 Policy DMT1. Further, the proposal would conflict with the Framework, where it seeks to promote sustainable transport.
20. The reason for refusal refers to Policy T3 of the LP. As this is focused on transport capacity and projects, it is of limited relevance in the context of this appeal.

### *Character and appearance*

21. As outlined above, the appeal site is predominantly open and verdant, with a limited presence of built form. Due to their limited size, the existing buildings appear typically rustic, lightweight and insubstantial. They are located close to the trees and hedgerows, so they nestle in the site effectively. The site therefore exhibits a pleasant rural informality.
22. The surrounding area has a rural character, where the large fields interspersed with hedgerows and trees dominate the landscape. There are limited pockets of development within the vicinity. As such, despite being located close to Harefield, a distinct and direct change in character exists between the built-up area and the open countryside where the site is located.
23. The proposal would introduce a residential plot with a clearly suburban and domestic appearance into the site. Due to the overall size and scale of the replacement dwelling, together with the inevitable associated residential paraphernalia, the proposal would harm the rural character of the area.
24. Despite the limited views from public vantage points, I do not find that the proposal should be accepted on the basis that it cannot be significantly seen. Indeed, the proposal would result in an incongruous form of development that would be uncharacteristic of the surrounding rural character.
25. The submitted Arboricultural Impact Assessment indicates that a number of Category B, C and U trees would be felled. Without an accompanying plan, it is not possible to understand which trees are proposed for retention or removal. In any event, the report does not refer directly to the appeal proposal, as it was originally produced in support of a previous planning application for another development. As such, I am unable to fully assess the effect of the proposal before me on the trees on site and therefore ascertain if any impact could be adequately mitigated through replacement planting.
26. As such, the proposal would have a harmful effect on the character and appearance of the area, and I am not satisfied that the proposal would not be harmful to the trees on site. The proposal would therefore conflict with LP Policies D3, D4 and G7; LP1 Policy BE1; and LP2 Policies DMHB11, DMHB12 and DMHB14. These policies seek to ensure that development is of the most appropriate form and land use for the site, delivers good design, harmonises with the local context, retains or enhances existing landscaping and is supported by an accurate tree survey. Further, the proposal would fail to accord with the Framework, where it supports development that is sympathetic to the character of the area.
27. The Council also refers to LP Policy D1, which is focused on the Council's requirement to carry out area assessments as part of their preparation of development plans. This policy has limited relevance to my assessment of this appeal and the harm I have identified.

### *Ecology*

28. The Preliminary Ecological Assessment found no evidence of bats using the buildings proposed to be demolished. As such, it is unlikely that the proposal would result in any significant impacts on bats or the places that they use for breeding, shelter and/or roosts. The PEA advises that there are no active badger setts within the site and there is no evidence that badgers are using the

site for foraging. Further, with the retention of the boundary hedgerows, there are no foreseeable ecological impacts on hedgehogs or their habitats. Whereas the Council disagrees with the findings of the PEA, I have not been provided with robust evidence to justify this stance and, as such, the weight of the evidence leans in the direction of the appellant.

29. Therefore, I am satisfied that the PEA demonstrates that the appeal site is suitable for the development without harming wildlife, through implementation of the suggested mitigation measures and recommendations which could be secured by planning condition, were I minded allowing the appeal.
30. As such, the proposal would not be harmful in terms of ecology, in accordance with Policy G6 of the LP and Policy DMEI7 of the LP2, which require development proposals to manage impacts on biodiversity. Further, the proposal would accord with the Framework, where it seeks to conserve and enhance the natural environment.

#### *Other considerations*

##### Extant permission

31. There is an extant planning permission for the change of use of the existing building on site from a store, garage, office and part-time residence for up to 50 days a year to a Class C3 dwellinghouse<sup>1</sup>. Based on the evidence, this is a realistic proposition which could be implemented by the appellant, were I to dismiss the appeal.
32. If the extant scheme were to be implemented, the proposal before me could then subsequently be considered under Paragraph 154d) of the Framework, which sets out the replacement of a building may not be inappropriate, provided the new building is in the same use and not materially larger.
33. I have already found that the proposed dwelling would be materially larger than the existing building, even if considering the offset offered by the demolition of the small shed and stable block. As such, even if the use of the building was first changed in line with the extant permission, the proposed dwelling would still be materially larger than the building it would replace. It follows that, if such a scheme were to be considered against Paragraph 154d), the result would still comprise inappropriate development. Consequently, the fallback position is a consideration of little weight in this respect.
34. Whereas the proposal before me may be for a larger bungalow, it is unlikely that the number of trips associated with this development would be considerably more than the consented scheme. In this regard, I find that the appeal proposal would be no more harmful than the fallback position. Whilst this may temper the weight I attribute to the conflict with policies relating to access to services, it would not justify the harm that would arise to the Green Belt. As a result, this is a consideration of little weight in Green Belt terms.
35. The extant scheme would have a less harmful effect on the rural character of the site, as the proposal before me seeks to deliver a significantly larger dwelling. Likewise, whilst this serves to reduce the weight attributable to the conflict with the relevant development policies, it does not justify the harm to the Green Belt. It is therefore also a consideration of limited weight.

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<sup>1</sup> LPA Ref 66100/APP/2022/2374

### The appellant's personal circumstances

36. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Act sets out the relevant protected characteristics which includes disability.
37. The proposal would be purpose built to meet the needs of the appellant's partner. Furthermore, the proposal would enable the appellant and their family to continue to live in familiar surroundings. However, I have no compelling evidence that this scheme is the only way in which the appellant's needs could be met. Furthermore, the new dwelling is likely to remain long after those personal circumstances cease to be material. On this basis, whilst I have given careful consideration to this issue, I can only attribute limited weight to the personal circumstances of the appellant in my consideration of whether very special circumstances exist.
38. Reference is made to other appeal decisions, where the Inspector considered that personal circumstances would outweigh the identified harm. The Conway case relates to an extension to an existing dwelling in Wales and such site does not appear to be in the Green Belt. In the Waverly case the Inspector found a small degree of harm to the Green Belt. These are not my conclusions in this appeal, where I have found substantial harm as set out above. Further, both appeals relate to household developments, so these schemes are markedly different to that before me now. Accordingly, I afford very limited weight to these decisions.

### Other benefits

39. The Council states that it is currently able to demonstrate a five-year housing land supply, whereas the appellant asserts that this is not the case. Nevertheless, the proposed development would contribute to the Council's housing stock and would meet the Framework's objective of boosting the supply of housing. Future residents would be economically active in the local area and there would be some economic benefits accrued from the construction process. Further, it would provide a house designed to meet the needs of a specific group. However, even if I were to accept the appellant's position on the housing land supply situation, given that the scheme relates to a single dwelling, these benefits attract limited weight in favour of the proposal.
40. Permitted development rights could be removed by way of a condition to control further development on site. However, restricting the erection of any additional structures on site would not overcome the harm associated with the development, as set out above. Therefore, I afford this matter limited weight.
41. The proposal would likely release a family size house to the open market as a result of the scheme's implementation. However, I am not persuaded that the appeal scheme is the only means of achieving this.

### **Green Belt Balance**

42. The Framework sets out that 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.

43. The appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. There would be loss of openness. The Framework requires substantial weight to be given to any harm to the Green Belt and any other harm. I have further found that the proposal would harm the character and appearance of the area and harm would arise in its failure to meet policy requirements to be sited in an accessible location.
44. I have attached limited weight in favour of the scheme to the extant permission, the appellant's personal circumstances and the other benefits that would arise for the reasons set out. With this in mind, very special circumstances to justify the proposal's harm to the Green Belt, by reason of inappropriateness, and any other harm, do not exist.

### **Planning Balance and Conclusion**

45. The proposal would conflict with the development plan as a whole. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
46. Whilst the material considerations before me have reduced the weight of policy conflict with reference to access and services and the character and appearance of the area, they do not do so in terms of the policy conflict in relation to the Green Belt.
47. If the appellant is correct that the Council cannot currently demonstrate a five-year supply of deliverable housing sites, Paragraph 11d) of the Framework would be engaged. However, Paragraph 11d) i) states that in such circumstances, permission should be granted unless the application of policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development. Given that I have found inappropriate development in the Green Belt in the absence of very special circumstances, a clear reason to refuse permission exists, and Paragraph 11d) ii) of the Framework does not apply.
48. Dismissing the appeal would interfere with the appellant's rights under Article 8, since the consequence might be that their family home would not be constructed in this location. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
49. However, the interference would be in accordance with the law and in pursuance of a legitimate aim which is the regulation of the development of Green Belt land in the public interest. Given the circumstances overall, I find that dismissal of the appeal is both proportionate and necessary.
50. Likewise, with regard to the PSED, I have afforded limited weight to the appellant's personal circumstances. Dismissal of this appeal is therefore a proportionate response to the requirements of the Act and the plan led system.
51. Overall, there are no material considerations of sufficient weight to justify a decision otherwise than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

*P Terceiro*

INSPECTOR