

i) CD17.14 paragraph 58 Appeal Ref: APP/J1915/W/23/3321219 Land at Tewin Hill, Upper Green Road, Tewin, Hertfordshire AL6 0LJ

This decision (13 October 2023) did not investigate the supply, but the Council appear to have accepted that a 5 year supply could not be demonstrated (CD17.14 paragraph 58).



Appeal Decision

Site visit made on 3 October 2023

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 October 2023

Appeal Ref: APP/J1915/W/23/3321219

Land at Tewin Hill, Upper Green Road, Tewin, Hertfordshire AL6 0LJ

- 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 Tewin Hill Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/1378/OUT, dated 11 July 2022, was refused by notice dated 11 November 2022.
 - The development proposed is the erection of 18 residential dwellings, together with access, car parking, public open space and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was refused for several reasons. Following the submission of the appeal, the Council withdrew the reasons pertaining to drainage and the loss of agricultural land. I have no reason to disagree with the conclusions reached by the Council in these instances and, accordingly, have proceeded on this basis.
3. The application was submitted in outline, with all matters reserved for future consideration apart from access. I have therefore had regard to the details that pertain to the reserved matters on an indicative basis only.

Main Issues

4. The main issues relevant to this appeal are:
 - whether the proposed development would be inappropriate in the Green Belt;
 - the effects of the development on the openness of the Green Belt;
 - the effect of the development upon the character and appearance of this surrounding area;
 - The effects of the development upon the living conditions of the occupiers of neighbouring properties;
 - The suitability of the appeal site as a location for the proposed development, with particular reference to the requirements of the development plan;
 - whether sufficient infrastructure would be provided; 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

Whether inappropriate development

5. The appeal site is located in the Green Belt. Policy GBR1 of the East Hertfordshire District Plan (2018) (the District Plan) states that planning decisions in the Green Belt should be considered in line with the National Planning Policy Framework (the Framework). The Framework regards the erection of new building in the Green Belt as generally being inappropriate. The Framework lists some exceptions to this (at Paragraph 149), which include that the undertaking of limited infilling in a village.
6. Although submitted in outline, the planning application sought permission for the erection of up to 18 dwellings. The development would also include access to the site. It is also likely that the development would include car parking areas, boundary treatments and vehicle manoeuvring areas. Therefore, the development would, cumulatively, create a significant amount of development and built form. For this reason, the development cannot be accurately described as being limited, even though the scale of the development has been reserved for future consideration.
7. The appeal site fronts onto Upper Green Road, which contains a number of dwellings. These are typically arranged in a linear fashion. To the side of the appeal site is Tewin Hill. Beyond Tewin Hill are more buildings. However, owing to the presence of Tewin Hill, the proposed development would not result in an enclosure of an existing line of dwellings in the surrounding area.
8. Although the layout of the development has been reserved for future consideration, it is likely that if the final development were to include up to 18 dwellings some of these would need to be arranged on a relatively large proportion of the appeal site, to achieve appropriate plot sizes.
9. In result, not all the proposed dwellings would have a frontage on to Upper Green Road. Therefore, the development would have a form that would be differ from the predominantly linear form of the existing nearby dwellings. In result, the proposed development cannot be an infill.
10. There is some debate as to whether the appeal site is within a village. This is pertinent as the assessment of whether an appeal site is within a village needs to be made based on an individual site and its surroundings, rather than establishing whether an appeal site is within allocated settlement boundaries.
11. However, in this case, I have concluded that the proposed development would not be either limited in scale; and would not also be an infill. Therefore, an assessment on whether the appeal site is within a village need not be given further consideration in this case. This is because it has already been established that the proposal would not meet the definition of a not inappropriate development in the Green Belt in this instance.

12. Although the Framework lists other types of development that might not be inappropriate in the Green Belt, the proposal would not fall within any of these categories.
13. I therefore conclude that the proposed development would be an inappropriate development in the Green Belt as defined by Policy GBR1 of the District Plan and the Framework.

Effect on openness

14. The appeal site consists of an undeveloped field, located adjacent to various other fields. The site is near to the built form of Tewin. The appeal site is somewhat undulating in nature. The boundaries of the site are marked by a combination of fences and hedges.
15. The proposed development would comprise up to 18 dwellings, in addition to the proposed access. It is also likely that the development would include items such as driveways, parking areas, vehicle manoeuvring areas and boundary treatments. These items would, in unison, result in a significant increase in the overall level of built form. Therefore, the proposed development would result in a general erosion of the spatial sense of openness that is a feature of the Green Belt.
16. In addition, the proposed development would result in an expansion of the settlement into the countryside arising from the type and likely quantum of buildings that would be constructed. In result, the development would create a diminished level of open space in the existing field. This would mean that the space between buildings, which give the settlement of Tewin a more rural appearance, would be diminished.
17. Irrespective of the height of the proposed dwellings, it is likely that they would be visible from several different vantage points. There would be several views from a large proportion of the neighbouring dwellings. Views would be of items such as dwellings, access points and parking.
18. In addition, given that the development would include the provision of residential dwellings, it is likely that at times vehicles would park within the confines of the final development and that elements of domestic paraphernalia would be placed within the boundaries of the appeal site. These items, in conjunction with one another, would also contribute to the formation of an engineered appearance.
19. Therefore, the proposed development would be readily apparent from the nearby road network. This would include parts of Upper Green Road and Tewin Hill. Therefore, the proposed development would result in an erosion of the visual sense of openness that is a feature of the Green Belt.
20. Although the appeal site is not part of a designated landscape, it has an open character. This would be eroded by the proposed development. In particular, views of the development upon a ridge in the landscape would be possible.
21. I therefore conclude that the proposed development would result in an erosion of the visual and spatial sense of openness in the Green Belt. The development would therefore conflict with the requirements of Policy GBR1 of the District Plan and the Framework. Amongst other matters, these seek to ensure that developments maintain the Green Belt's sense of openness.

Character and appearance

22. The proposed development would result in the creation of a notable number of dwellings. This would be in addition to several other elements of development, associated with the use of the site for residential purposes, as described previously. The appeal site consists of a field, which is undulating in nature. The appeal site is also near to other fields.
23. The appeal scheme would result in a significant overall increase in the level of built form, by reason of the scale of the proposed works. In result, the proposed development would create an urbanised appearance. This would conflict with the general open and rural character that is a feature of the surrounding landscape.
24. In addition, the proposed development would result in a more built up appearance when viewed from the nearby road of Upper Green Road. Currently, the presence of space between buildings allows for the settlement to harmonise with the rural areas beyond. By reason of the scale of the proposed development, the proposal would result in an erosion of the verdant character of the settlement.
25. Furthermore, from Tewin Hill, the proposed development would also be viewed alongside several other fields, which assist in giving the area a rural character. The development, by reasons of the expansion of built form, would result in an incongruous development and erosion of the wider area's more rural character.
26. In result, the proposed development, irrespective of the scale and form of the dwellings would be incongruous.
27. This causes a concern given the relative prominence of the development. In addition to views from the section of Upper Green Road nearest the appeal site, the proposed development would also be apparent from the neighbouring dwellings. Some of these dwellings feature windows on the upper floors and directly face the appeal site. This means that the development would be readily perceptible.
28. In addition, views of the proposed development would be available from parts of the nearby road of Tewin Hill. By reason of the topography of the surrounding area, the development is likely to take place on a ridge in the land. This means that the proposed dwellings would be readily apparent from the wider area.
29. Therefore, owing to the number of viewpoints from which the proposed development would be visible and the potentially large number of people that might experience the scheme, the proposal would be a strident addition to the landscape.
30. In reaching this view, I have had regard to the possibility of some views from other vantage points in Upper Green Road. Whilst the proposed development is likely to be visible from these locations, they are likely to be only partial in nature. Furthermore, they would also be of a backdrop including other buildings in the surrounding area. In result, the development would not result in harm to the character of these areas; however, it would not offset my previous findings.

31. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with the requirements of Policies DES2, DES3 and DES4 of the District Plan. Amongst other matters, these seek to ensure that developments conserve, enhance or strengthen the character and distinctive features of the district's landscape; retain, protect and enhance existing landscape features; and promote local distinctiveness.

Living conditions

32. The proposed development would be sited adjacent to an existing house, which is shown on the submitted plans as being 80 Upper Green Road. Although the planning application was submitted in outline, access was not reserved for future consideration. Therefore, it is clear that the access to the development would be near to the shared boundary with No. 80. Amongst other points, No. 80 features windows that face the appeal site, as well as a garden that is sited adjacent to the shared boundary.

33. By reason of the likely quantum of the development, the proposed scheme is likely to result in a greater number of vehicle movements entering and leaving the site. In reaching this view, I have had regard to the indicative layout. Although some dwellings would face Tewin Hill, the only vehicle access point is adjacent to No. 80.

34. Due to the increased number of vehicle movements, there would be additional noise that would be generated. This would comprise movement of vehicles into and out of the proposed development, in addition to any vehicles that might manoeuvre in the development itself. These would include noise from vehicles being moved into car parking spaces.

35. In addition, it is likely that noise would be generated from within the gardens of the proposed dwellings as part of the use of these spaces by the occupiers of the development. This would likely represent a notable increase in the overall levels of noise, when compared to the existing use of the appeal site.

36. This means that there would be an increased level of noise that would be audible within the confines of the existing property at No. 80. This would be most apparent in the garden of the dwelling. However, the existing dwelling features several windows that face the appeal site. During periods of good weather, it is likely that these windows may be opened. This would occur irrespective of the use of any rooms served by the windows of the neighbouring dwelling.

37. In result, the proposed development would reduce the ability of existing residents to undertake the full range of activities within their property, and also experience an appropriate level of peace and quiet.

38. In considering this appeal, I have had regard to whether a condition could be imposed to secure additional screening that might reduce the level of noise that would be audible at the neighbouring property. However, if this were to be installed it would result in a more urbanised and developed appearance which would conflict with the rural character of the surrounding area. In result, this suggestion does not overcome my previous concerns.

39. Owing to the size of the appeal site and the positioning of the access, I have no reason to believe that a development could not be designed to ensure that the

erection of new buildings would not have an adverse effect upon the levels of privacy and outlook experienced by existing residents. However, this does not outweigh the preceding findings.

40. I therefore conclude that the proposed development would have an adverse effect upon the living conditions of the occupiers of the neighbouring property. The development, in this regard, would conflict with the requirements of Policy DES3 of the District Plan. Amongst other matters, this seeks to ensure that developments retain, protect and enhance existing landscape features which are of amenity value.

Suitability of the site

41. The appeal site is near the boundaries of the settlement. The nearby roads feature separate pavements, although these are not extensive. In addition, there is no street lighting. The settlement of Tewin features a level of services that would be typically expected within a smaller, rural, settlement.
42. Owing to the positioning of the appeal site in relation to Tewin, residents would have relatively easy access to the services and facilities that are on offer within the settlement. However, given the level, and type, of provision, it is likely that residents would need to travel to other settlements to access the full range of facilities and services that they are likely to require on a frequent basis.
43. This poses a concern as the roads linking Tewin to other settlements typically do not feature pavements or streetlighting. Therefore, the lack of a welcoming environment for pedestrians or cyclists is likely to encourage travel by motor vehicles.
44. Although the appeal site is near to bus stops, the evidence before me does not indicate that there is an extensive bus service. Therefore, it is likely that public transport would not serve an option for all journeys that the future residents are likely to need to undertake.
45. In result, it is likely that the residents that would require services and facilities that are not available in Tewin itself would travel by private car to other settlements. This would mean that the proposed development would, by reason of its siting, lead to an increase in the number of journeys that would be required.
46. Although the proposed development could include some cycle storage, this would not offset the adverse effects as previously described arising from the appeal site's location, and the surrounding road network.
47. This would conflict with the aims of the Development Plan and the Framework, which seek to ensure that new developments are situated in areas where residents have different travel options and access to all the services and facilities that they are expected to require.
48. My attention has been drawn to previous appeal decisions in the Council's administrative area. Although the appeal site before me is closer to other larger settlements, there is a notable distance that residents would need to travel and an absence of effective alternatives other than private vehicles. In result, these previous decisions do not allow me to forego my preceding concerns.

49. I therefore conclude that the proposed development would not be appropriately sited. The development, in this regard, would conflict with the requirements of Policies DPS2 and TRA1 of the District Plan. Amongst other matters, these seek to deliver sustainable development in accordance with an allocated hierarchy; and promote sustainable transport.

Infrastructure

50. In considering this appeal I have been directed towards Policies DEL2, CFLR1, CFLR7, CFLR9, CFLR10 and TRA2 of the District Plan. Amongst other matters these seek to ensure planning obligations are sought where they are necessary to make the development acceptable in planning terms; that residential developments will be expected to provide open spaces; provide adequate and appropriately located community facilities; maximise the impact it can make to promoting healthy communities; make appropriate provision for new education facilities; and mitigate trip generation.

51. Given that the proposed development is likely to include an element of family accommodation, it is apparent that such facilities would be required in order to meet the varying needs of the future occupiers of the development and to ensure that the effects of the development would be mitigated. In addition, I am mindful that a requirement of the Framework is to provide a mixture of house types in order to meet the needs of all members of the community.

52. The appellant has submitted a draft Unilateral Undertaking (UU). This includes items including affordable housing; open space; library facilities; educations; waste services; youth facilities; sports and play facilities; and community facilities. However, the UU has not been signed.

53. In consequence, had I been minded to allow this appeal, the UU that has been submitted would not be capable of taking effect. In result, this would mean that the necessary infrastructure that would be required by the future occupiers of the proposed development would not be provided. This would therefore mean that the needs of the future occupiers if the development would not be met.

54. I acknowledge that the appellant is working on completing a UU. However, it is imperative that documents are submitted in accordance with the timetable for appeal proceedings. This has not occurred in this instance. In result, I am compelled to determine the appeal on the basis of the information before me. This means that the development would generate some harm in this regard.

55. I have given consideration as to whether a condition could be imposed to secure the required infrastructure. However, given that this would need to cover the payment of financial contributions and the tenure of the dwellings, it would not be possible to phrase such conditions with sufficient precision and reasonableness.

56. In result, this suggestion does not allow me to forego my previous considerations. Therefore, the absence of a completed legal agreement amounts to harm that would arise from the proposed development.

57. I therefore conclude that the proposed development would not make sufficient provision for associated infrastructure. The development, in this regard, would conflict with Policies DEL2, CFLR1, CFLR7, CFLR9, CFLR10 and TRA2 of the District Plan.

Other considerations

58. The Council cannot currently demonstrate a five-year housing land supply. However, given that the proposed development would result in harm to the Green Belt, the provisions of Paragraph 11 d(ii) of the Framework do not apply. Nonetheless, the local housing supply is a material consideration that I must give weight to.
59. However, given that the precise current housing land supply position and as the proposed development would result in the provision of a maximum of 18 dwellings, the weight that can be attributed to the proposed development is reduced.
60. I also acknowledge that the proposed development could deliver a policy compliant level of affordable housing, which is in some need in the locality. In addition the evidence before me is indicative that the proposed development would be deliverable. In consequence, I give the benefits arising from the proposed development to the local housing supply a moderate amount of weight.
61. The proposed development would deliver some biodiversity improvements. This is notable given that the appeal site is predominantly grassland associated with its existing agricultural use. In consequence, this can be given a moderate amount of weight.
62. The proposed development would generate some economic benefits arising from the construction process, in addition to support to local businesses and facilities arising from the occupation of the proposed development. However, by reason of the number of dwellings that are proposed, these benefits are likely to be relatively small-scale in impact. Furthermore, some of these are also likely to be of a time-limited duration. In consequence, this matter can also only be given a limited amount of weight.

Other Matters

63. My attention has been drawn to previous appeal decisions. I do not have the full information regarding the planning circumstances of these, which means that I can only give them a limited amount of weight. Nonetheless, I note that these are for developments of different scales when compared to the scheme before me. In addition, they are in different geographical locations.
64. In result, the assessment of any benefits or adverse effects are likely to be different to the conclusions reached in respect of the appeal scheme and the merits of its own location. It therefore follows that the presence of previous appeal decisions do not allow me to disregard my previous findings.
65. The appeal site is not located in a Conservation Area, would not affect any Listed Buildings and is in Flood Zone 1. Whilst these are matters of note, they represent only some of the issues that must be considered and therefore do not overcome my previous findings in respect of the main issues.

Planning Balance

66. The development plan and Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances.

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.

67. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. In so doing I have found harm to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.
68. In addition, the harm that would arise to the character and appearance of the surrounding area, the lack of a completed legal agreement, the unsuitable nature of the appeal site's location and the harm to the character and appearance of the surrounding area also can be attributed a significant amount of weight.
69. The other considerations I have identified individually and collectively carry a moderate to limited amount of weight in favour of the proposal. As such the harm to the Green Belt, in addition to the harm to the living conditions of the occupiers of the neighbouring property, the character and appearance of the surrounding area and the unsuitable nature of the appeal site's location, is not clearly outweighed by the other considerations identified, and therefore the very special circumstances necessary to justify the development do not exist.

Conclusion

70. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR