



Appeal Decision

Site Visit made on 26 January 2021

by R E Jones BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2021

Appeal Ref: APP/P1940/W/20/3258413

Scotsbridge House, Scots Hill, Rickmansworth WD3 3BB

- 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 Millen Homes Ltd against the decision of Three Rivers District Council.
- The application Ref 19/1685/OUT, dated 3 September 2019, was refused by notice dated 30 March 2020.
- The development proposed is demolition of offices and erection of new development of 63 flats with underground parking.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with matters of scale, layout and means of access to be determined at this stage. Therefore, I have treated the drawings showing the appearance and landscaping of the building and site as indicative only.
3. Following the submission of the appeal, I have received a signed and dated unilateral undertaking (UU) that secures the provision of 8 intermediate affordable dwelling units as part of the proposal. The Council were given the opportunity to comment on this.

Main Issues

4. The main issues in the appeal are:
 - i) Whether the proposal is inappropriate development in the Green Belt for the purposes of the Framework and the development plan, including the effect on the openness of the Green Belt; and
 - ii) If the development would be inappropriate development, 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

Background

5. The appeal site lies within the Green Belt and comprises a large building currently used as offices. The building is set within spacious grounds characterised by tall mature trees and lawned spaces. A large portion of the

building's front elevation is close to, and visible from Scotts Hill, a busy highway to the north that connects Croxley Green and Rickmansworth.

6. A previous outline planning application for 33 units at this site was dismissed at appeal¹. The current appeal proposes the same site layout, while the indicative drawings of the proposed building's appearance remain unaltered. The matter of scale was reserved as part of the previous application but is for consideration as part of this current appeal.
7. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework makes it clear that new buildings are inappropriate in the Green Belt, subject to a number of exceptions. One exception, set out in paragraph 145(g) concerns the limited infilling or partial or complete redevelopment of previously developed land providing that i) it would not have a greater impact on the openness of the Green Belt than the existing development, or ii) would not cause substantial harm to openness where it would contribute to meeting an affordable housing need within the local area.
8. Policy CP11 of the Local Development Framework - Core Strategy, adopted 17 October 2011 (Core Strategy) does not fully reflect the provisions of the much later Framework in respect of development within the Green Belt as it does not outline any of the exceptions as contained within paragraph 145. As such I consider that this policy is only partially consistent with the Framework. Policy DM2 of the Local Plan – Development Management Policies, Local Development Document, adopted July 2013 (the DMP), similarly does not list those exceptions. However, it states, amongst other things, that within the Green Belt, except in very special circumstances, approval will not be given for new buildings other than those specified in national policy, and in this respect I consider that it is consistent with the Framework.
9. The main parties agree that the site is previously developed land. There is no substantive evidence to lead me to a different conclusion. Therefore, the proposal would be in line with the initial part of the exception under paragraph 145(g) of the Framework.

Affordable housing

10. The proposal would provide 8 affordable housing units in the form of intermediate / shared ownership dwellings, and the appellant has submitted a signed UU that would secure their delivery.
11. Policy CP4 of the Core Strategy sets out the Council's affordable housing needs. This seeks an overall provision of 45% of all new housing to be affordable units, and as a guide, 70% of those affordable units provided are to be social rented and 30% to be intermediate. This ratio, however, will also be informed by the Strategic Housing Market Assessment (SHMA) for the area, which has recently indicated the requirement for a greater number of units in the social rented tenure. Notwithstanding, the above requirements, the policy states that site circumstances and financial viability will also be taken into consideration when assessing affordable housing requirements.

¹ Appeal Decision APP/P1940/W/18/3214903, dismissed on 9th July 2019

12. The provision of 8 affordable units would account for 13% of the proposal's total housing and would be entirely made up of intermediate affordable dwellings. Although this would not meet the specific requirements outlined in Policy CP4, the viability appraisal that accompanied the application indicated a deficit of £829,943, thus rendering the provision of 45% affordable housing unviable. The Council does not challenge this conclusion and even states that, based on the viability evidence alone, the scheme would not be refused for failing to meet the 45% requirement. Despite this, for the purposes of this proposal and its impact on the Green Belt, the Council consider that the number of affordable units would not weigh in favour of the development unless the 45% provision is met.
13. I note the acute shortage of affordable housing in the locality, while a large proportion of the demand is for dwellings within the social rented tenure. Nevertheless, against this background, the provision of 8 intermediate affordable units would at least make an appreciable contribution to the overall requirement and the identified need, even if it would not fulfil the Council's 45% threshold. Furthermore, the Council's Housing Department indicates that take up of this tenure is good, while there is no clear evidence before me that the tenure is currently over-subscribed or not required in the locality.
14. The affordable housing units would be secured through a planning obligation, which has been submitted with the appeal. I note the Council's concerns that there are inconsistencies between schedules within the obligation, which could absolve the developer from its responsibilities to deliver the affordable units. Consequently, the Council has doubts regarding the enforceability of the UU. However, the schedules in question would operate in conjunction with one another rather than being mutually exclusive components of the agreement, as the drafting ensures that the terms of the more detailed Scheduled 2 would need to be met in addition to Schedule 1. On this basis I see no reason why the planning obligation would not be able to secure the proposed affordable housing.
15. I am therefore satisfied that the intended aim of the proposal would be to contribute to meeting an identified affordable housing need in the local area as required by paragraph 145 (g) (ii). The issue therefore hinges on whether the proposal would not cause substantial harm to the openness of the Green Belt.

Effect on openness

16. The term openness essentially relates to the absence of buildings and development. In determining the nature and extent of impacts on Green Belt openness it is appropriate to assess both spatial and visual impacts.
17. The proposal would result in a footprint increase of 9% and an above ground volumetric increase of 18% over and above the existing structure. These increases remain largely unchanged from the scheme that was previously dismissed at appeal. On this basis, the proposed building's volume and floor area confirm that there would be a spatial increase in built form on the site, and thus a reduction in the openness of the Green Belt.
18. I have also considered the visual and spatial effects of the proposal on the ground, taking into account the existing structures on the site and the nature of the proposal.

19. The existing structure covers an expansive area of land and comprises older buildings that are connected to later additions, most notably the large part two storey/part single storey flat roof extension that extends southward towards the site's rear boundary.
20. In visual and perceived terms, the proposal would result in a more prominent front elevation facing Scotts Hill, with the existing two and three storey buildings, replaced with a new front elevation comprising a taller mansard roof profile and accommodation over four floors. When approaching from Scotts Hill, in both directions, the proposed building, would appear as a significantly bulkier structure incorporating a more expansive roof profile. Furthermore, its more unified front elevation has a greater concentration of window and door openings. Consequently, it would present itself to the road, as a more intensive and imposing structure, in marked contrast to the existing façade with its reduced scale and fragmented arrangement that includes the shorter two-storey flat roof addition, connecting the older buildings.
21. Furthermore, a larger area of hardstanding behind the appeal site's boundary with Scotts Hill would be created following the demolition of the existing structure. This would accommodate parking and turning for around 15 vehicles and would likely be visible from Scotts Hill through the new site access. The presence of this amount of parked cars extending across the site's roadside frontage would have an appreciable greater impact on openness of the Green Belt than the existing courtyard space in front of the building, which is more contained by the existing structures, smaller in area and not used for parking purposes.
22. The proposed rear wing would have a comparable depth to the existing part two storey/part single storey flat roof extension it would replace. However, it would be a taller structure incorporating four storeys of accommodation for a large part of its length. When viewed from within the grounds of the site the proposed rear wing would occupy a far greater portion of the vertical field of vision, while its four-storey design would not have the same level of physical subordination as the existing rear extension. Furthermore, the rear wing's greater mass and vertical extent would also be visible from short to medium range views at Fortune Common to the west, and from Lavrock Lane to the east. Although the proposed Yew Tree planting along the site's Lavrock Lane boundary would screen the lower portion of the rear wing somewhat, it would nevertheless rise significantly above this boundary and be visible to users of the lane as the planting establishes. In any case, the proposal's increased scale would be considerable from within the open grounds of the appeal site.
23. The appellant's proposals include the provision of a green wall system to the elevations and a sedum roof. The full details and the appearance of these planting proposals are not clear from the submitted documents. Furthermore, given that the proposal's appearance is a matter reserved for future consideration it would not be possible to fully assess the effectiveness of these landscape features in reducing its visual impact. Nevertheless, it is unlikely that this landscaping would shroud the proposal to any great extent or significantly reduce its effect on openness, giving its substantial scale and structural profile.
24. In light of the above, the combined effects of the proposal's greater mass and vertical extent, along with the increased frontage parking would substantially reduce the openness of the appeal site in both spatial and visual terms.

Conclusion on whether inappropriate development

25. The proposal would contribute to meeting an identified affordable housing need in the local area, however, it would cause substantial harm to the openness of the Green Belt. Therefore, it would be a form of inappropriate development which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances. It would conflict with Paragraph 145 (g) of the Framework and Policy CP11 of the Core Strategy and Policy DM2 of the DMP, the requirements of which have been referred to above.

Other considerations

26. As part of my assessment, the Framework requires me to come to a view as to whether or not, in Green Belt terms, there are other considerations that clearly outweigh the totality of the identified harm so as to amount to very special circumstances.
27. In this regard, the proposal would provide 63 flats, 8 of which would be affordable housing units, on previously developed land. These would contribute significantly to the local and district wide housing supply as well as addressing the acute shortfall in both the open market and affordable housing stock. I therefore attribute considerable weight to these benefits.
28. There would be some local economic uplift resulting from the scheme's construction and an increase in local expenditure. I attach moderate weight to these economic benefits. Moderate weight is also given to the proposal's accessible location close to shops, services and transport connections.
29. The additional planting proposed along the site's Lavrock Lane boundary and within the site would result in additional landscaping which may bring about biodiversity gains. Integrated planting upon the building's exterior is also proposed. Yet, I have only given modest weight to the scheme's ecological and landscape benefits, as there is insufficient information before me in terms of the net ecological gain that would be provided in this instance.
30. In terms of the scheme's energy efficiency, I note the submitted energy report, however, this refers to a previous scheme at the site for 33 units, whilst the report has sections annotated as "Draft". Given these inconsistencies with the current scheme, I cannot be certain that the energy efficiency calculations would also relate to the appeal before me. In addition, it is not clear at this stage how the proposed solar panels would integrate with the sedum roof. Accordingly, this matter attracts limited weight.

Other Matters

31. The appellant contends that the proposal's effect on Green Belt openness should be assessed against a "fall-back" position formed by a previously consented scheme² for 59 flats. But, that scheme has a more reduced height and mass along the front elevation facing Scotts Hill, while the rear wing will incorporate one less storey of accommodation. Moreover, that development has not commenced, and I note from the submitted evidence that there are doubts relating to its viability and whether it would meet the requirements of

² Local Planning Authority Approval Ref – 19/1684/OUT

the planning obligation pertaining to the consent. Consequently, given the differences between that scheme and the proposal, it would not represent a genuine fallback position.

32. The 2020 Housing Delivery Test results show that the Council has underdelivered against its housing requirement over the latest 3-year period. Consequently, the presumption in favour of sustainable development set out in Paragraph 11 d) of the Framework is engaged. However, despite the deficiency in the housing land supply, Footnote 6 of the Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The Green Belt is an example of such areas/assets and the proposal is contrary to the relevant policies of the Framework in regard to these.
33. Although not referred to in the Council's decision notice, the officer's report, considers that the proposal's scale would be harmful to the character and appearance of the area. Whilst I accept that the proposal results in a much larger building with substantial impacts on green belt openness, particularly in terms of its overall mass and height increase, it would nevertheless consolidate the existing arrangement of interconnecting structures and would be more likely to be perceived as one substantial building. The proposed front elevation would present itself more coherently to the street, while the rear wing, albeit larger in scale, would be stepped down from the main roof line and maintain a similar length to the existing rear addition.
34. From longer distance views from Park Road and the A412 to the site's north and north west, the building's altered scale would not be obvious, given the presence of existing trees that surround the appeal site. Accordingly, the proposal's scale does not present itself as being harmful to the area's character and appearance, and would therefore accord with the development plan policies, referred to by the Council, which seek to protect the District's character and appearance.
35. The proposal's appearance has not been submitted for assessment; however, the indicative details show that the building's elevations could be designed in an acceptable manner. Furthermore, the larger proportions of the proposal could be softened to a degree by the landscape proposals to the building's fabric.

Green Belt Balance and Conclusion

36. I have found that the proposal would be inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. I consider that the nature of the harm that would arise in this regard would result from conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment. Consistent with paragraph 144 of the Framework I attach substantial weight to this harm.
37. In addition to the definitional harm caused by the proposal's inappropriateness, I have found that the harm to openness would be substantial in magnitude. This further weighs against the proposal.
38. The scheme's benefits include the proposal's contribution to local housing supply including the provision of 8 shared ownership affordable dwellings, and I

have attached considerable weight to this. Other benefits include the contribution the proposal would make to the local economy and the scheme's accessible location, matters which I accord moderate weight. Other material factors which weigh in favour of the proposal include the energy efficiency and biodiversity benefits, yet these only attract limited weight.

39. My overall conclusion, however, is that these benefits do not clearly outweigh the identified harm to the Green Belt so as to amount to the very special circumstances necessary to justify the appeal proposal. Consequently, very special circumstances do not exist. The proposal would be contrary to Policy CP11 of the Core Strategy and Policy DM2 of the DMP and the provisions of the Framework.
40. For the reasons given above the appeal is dismissed.

RE Jones

INSPECTOR