



Appeal Decision

Site visit made on 22 October 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2020

Appeal Ref: APP/J1915/W/20/3254838

Dalmonds Wood Farm, Mangrove Road, Brickendon, Hertford SG13 7QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Eamon Bourke of Dalmonds Wood Farm Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0337/FUL, dated 17 February 2020, was refused by notice dated 4 May 2020.
 - The development proposed is described as: 'change in use of existing disused reservoir from agricultural use to recreational use in the form of private fishing and the installation of a small boat to be let for holiday accommodation in association with the private fishing use'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of this appeal are:
 - i. whether the proposed development would be inappropriate development in the Green Belt;
 - ii. the effect of the proposed development on the openness of the Green Belt;
 - iii. the effect of the proposed development on the character and appearance of the appeal site and surrounding area; and,
 - iv. if the proposal is inappropriate development in the Green Belt, 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

3. It is confirmed in the Officer Report that the principle of the change of use of the land and reservoir for the provision of outdoor sport/recreation in the form of private fishing would be acceptable. Additionally, it acknowledges the associated landscape planting, grading engineering works to the sides of the existing reservoir to provide shallow margins, the installation of 5 small wooden fishing platforms (1m x 1.5m) and the formation of an informal parking area for 3 vehicles would also be acceptable, causing no Green belt

harm. The main area of dispute between the main parties surrounds the provision of a holiday let in the form of a sailing boat (the boat), moored on the reservoir. The boat would have approximate dimensions of 7.6m long x 3.6m wide. On the evidence before me, I have little reason to disagree with the Council's observations on these matters and have therefore dealt with the appeal on this basis.

Inappropriate development

4. The National Planning Policy Framework (the Framework) states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145 of the Framework.
5. In the Planning Statement it is confirmed that the boat would have its engine and fuel tank taken out to ensure potential sources of pollution are removed. Therefore, on this basis, the boat would have a degree of permanence. However, although the boat would be used for residential purposes, it cannot to my mind be equated to a new 'building' and in turn to a 'dwelling'. I consider that the correct approach is firstly to note that paragraph 145 refers only to buildings.
6. Therefore, based on the above, I find paragraph 146 to be more appropriate in this instance, which states: 'Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it'. Particular relevance in this case is paragraph 146 e), which states: 'material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)'. Even if I decided that the boat constituted a 'new building' for the purposes of the Framework, paragraph 145 b) still requires the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation facilities to preserve the openness of the Green Belt and not to conflict with the purposes of including land within it.
7. Consequently, the proposed development would not be inappropriate development unless it would have a greater impact on Green Belt openness and purposes. My conclusions on the next issue will, therefore, determine whether or not the development is inappropriate.

Openness

8. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. The Planning Practice Guidance (PPG) identifies factors which can be taken into consideration when assessing the impact of a development on Green Belt openness. It states that openness is capable of both spatial and visual aspects.
9. The appeal site is located in the open countryside and is partially screened by mature trees and vegetation on the site boundaries, which reduces its visual effect. Nonetheless, the effect on openness is not just about the degree to which a structure would be visible to the public realm, but it is also concerned about the spatial aspect of encroachment on openness which can result from the effect of even small structures, such as the boat.

10. I recognise that the boat would be of a simple design, relatively small in scale, occupying a small part of the reservoir. Nonetheless, the boat would introduce additional bulk and massing to the site and therefore, in spatial terms, would have a harmful impact upon the openness of the Green Belt. It follows that whilst the proposal would not be visually intrusive in terms of openness, it would nonetheless, have a moderate impact on openness due to its spatial characteristics.
11. Whilst the appeal site is only small, even small incursions into the Green Belt can erode it, meaning that it's lost forever. There is no definition of "openness" in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development. I conclude that the proposal would have a moderate harmful impact on the openness of the Green Belt and would, therefore, represent inappropriate development.

Character and appearance

12. The reservoir is approximately 3500m² in area and is an open expanse of water with minimal surrounding vegetation and the site has a visual connection with the surrounding open countryside, especially with the adjoining agricultural fields. The boat would be moored in the north east section of the reservoir, although I note that this location is indicative. Additionally, I acknowledge that the immediate area surrounding the site reservoir would benefit from a scheme of native tree planting.
13. However, whilst I accept that it is not unusual to find boats on expanses of water, I do consider in this instance that a 'sailing vessel' of the type indicated in the Planning Statement would appear as an unusual feature on the site, as such a vessel would not normally be moored on such an expanse of inland water. Additionally, on the limited details before me, I cannot be certain that such features as the mast or the sails would not be raised. I have considered whether suitably worded conditions could be imposed to ensure that otherwise unacceptable development could be made acceptable in this respect, but this is not possible in this instance.
14. For the reasons given above, I conclude that the proposal creates moderate harm to the character and appearance of the appeal site and surrounding countryside. The development therefore fails to accord with the design, character and appearance requirements of the Framework.

Other considerations

15. I have concluded that the proposal represents inappropriate development in the Green Belt and harms the openness of the Green Belt. Substantial weight should be given to this harm. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
16. Whilst no formal case has been put forward by the appellant to demonstrate very special circumstances, I acknowledge there would be some limited economic and social benefits resulting from the proposal. I also recognise that the Framework¹ seeks to support a prosperous rural economy, including the development of tourism. The proposal would complement the appellant's existing rural business, utilising the existing reservoir, where the tourist

¹ Paragraph 83

accommodation would be provided in an attractive countryside location and relatively close to surrounding settlements and other holiday lets. There is no good reason to take the view that the proposed accommodation would not be successful in attracting visitors. However, I have found harm to the Green Belt by way of inappropriateness and the moderate harm to openness to which I must attach significant weight.

17. Consequently, these considerations, along with the other matters identified in the evidence either individually or collectively, do not clearly outweigh the identified harm to the Green Belt so as to amount to the very special circumstances necessary to justify the proposal.

Other Matters

18. The Council has raised concerns surrounding the viability of the proposed holiday let in the Officer Report, albeit providing little evidence to support its assertion. However, as I am dismissing the appeal for other reasons, I have not needed to consider this matter further.
19. The appellant has also expressed concerns about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Green Belt Balance

20. In summary, therefore, the appeal proposal would be inappropriate development in the terms set out in the Framework and lead to a moderate loss of openness to the Green Belt. Furthermore, the proposed development would cause moderate harm to the character and appearance of the appeal site and surrounding countryside.
21. Having carefully considered the benefits of the proposal and all other considerations, I find that individually and cumulatively, they would not clearly outweigh the substantial weight given to Green Belt harm and other identified harm. As such, the very special circumstances needed to justify the proposal in the Green Belt do not exist in this case. Accordingly, there is conflict with Policy GBR1 of the Council's District Plan 2018 and the requirements of the Framework.

Conclusion

22. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR