

3/09/1247/FP

1. **3/09/1247/FP – Erection of 1No three bedroomed dwelling and garage at Former Bliss Vehicles Site, London Road, Spellbrook, CM23 4AU, for Mr and Mrs Smeeth**
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Date of Receipt: 24.08.09

Type: Full – (Minor)

Parish: SAWBRIDGEWORTH

Ward: SAWBRIDGEWORTH

RECOMMENDATION

That planning permission be **REFUSED** for the following reasons:-

1. The application site lies within the Metropolitan Green Belt as defined in the East Hertfordshire Local Plan wherein permission will not be given except in very special circumstances for development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. No such special circumstances are apparent in this case, and the proposal would therefore be contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007.
2. The proposed development by reason of its siting, size, scale and height would be overbearing and detrimental to the outlook of the adjoining dwelling, contrary to Policy ENV1 of the East Herts Local Plan Second Review April 2007.

_____ (124709FP.NB)

1.0 Background

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The site is situated to the north of the main area of the settlement of Spellbrook and is within the Metropolitan Green Belt, as defined in the Local Plan.
- 1.3 The area immediately surrounding the application site comprises of residential properties to the north and south which form a ribbon development to the east of the A1184. The site is adjoined to the north and south by residential properties known as White Cottage to the north and The Dell to the south. Adjoining The Dell is an existing car sales garage.

3/09/1247/FP

- 1.4 To the rear of the site is land within the applicant's ownership which is undeveloped and contains dense landscaping. The land levels decline here in an eastern direction where this land adjoins the railway line.
- 1.5 The application site consists of undeveloped grassed land with various shrubs and trees concentrated to the northern boundaries of the site. A concrete base is partially visible, from a close distance beneath shrubs and tree debris. The concrete base is located beneath an ash tree, which is proposed to be removed as part of this application, located towards the north of the site.
- 1.6 The proposal is for the erection of a three bedroom dwelling with an attached garage. The dwelling is proposed to be set back from the highway by approximately 22 metres. The dwelling would be located within 2 metres of the north boundary of the site with White Cottage and the garage would be within 1 metre of the north and west boundary with this property.
- 1.7 The proposed dwelling would form an L-shaped property which would be 2 storeys in height and the attached garage would be single storey.
- 1.8 An existing vehicular access onto the highway is proposed to be used for the proposed development. A large area of existing trees is proposed to be retained to the front of the site and the north of the access. An ash tree is proposed to be removed to make way for the construction of the dwelling.
- 1.9 Within their supporting statement the applicants have commented that the site constitutes previously developed land as it was previously part of a larger commercial site owned by Biss Vehicles Ltd. In 1997 the land owned by Biss was separated into 3 parcels of land, one of which was purchased by the applicants and part of this parcel now forms the application site. In 1997 the applicants arranged for the land to be cleared of an old vehicle and a burnt out skip. The applicant has also commented that the proposed dwelling would be built on part of a concrete base of an old building which was demolished. The application however contains no information as to when this building was demolished.

2.0 Site History

- 2.1 In 1998 outline planning permission, submitted under lpa. reference 3/97/1770/OP, was refused for a detached dwelling and a garage at the

3/09/1247/FP

site for two reasons that related to the proposed development constituting inappropriate development within the Green Belt and resulting in the consolidation of an existing ribbon of development, to the detriment of the rural character and appearance of the area.

- 2.2 A subsequent application for outline permission for a detached dwelling, made under lpa. reference 3/98/1779/OP and a garage was refused permission in 1999 for two reasons that related to the proposed development constituting inappropriate development within the Green Belt and resulting in the consolidation of an existing ribbon of development, to the detriment of the rural character and appearance of the area. This application was dismissed at appeal in 1999.
- 2.3 An application submitted for outline permission for a detached dwelling under lpa. reference 3/00/0672/OP was withdrawn in 2000.
- 2.4 In 2003 outline planning permission, made under lpa. reference 3/03/2223/OP for two detached dwellings and a garage at the site was refused for two reasons that related to the proposed development constituting inappropriate development within the Green Belt and resulting in the consolidation of an existing ribbon of development, to the detriment of the rural character and appearance of the area.
- 2.5 An application for outline planning permission for two dwellings and a garage, made under lpa. reference 3/04/1034/OP, was refused permission for two reasons that related to the proposed development constituting inappropriate development within the Green Belt and resulting in the consolidation of an existing ribbon of development, to the detriment of the rural character and appearance of the area. This application was dismissed at appeal in 2005.

3.0 Consultation Responses

- 3.1 County Highways do not wish to restrict the grant of permission subject to conditions relating to hard surfacing and turning space within the site and areas for parking and storage of construction materials. They have commented that the proposal to develop the land for a single residential dwelling would in principle be acceptable to the Highway Authority, and vehicle trips would be minimal. There is sufficient off-street parking provision and a turning area is proposed to be provided to ensure vehicles are able to manoeuvre and exit onto the highway in forward gear.

- 3.2 The Historic Environment Unit, HCC comment that the proposed development is likely to have an impact on significant archaeological remains and recommend a condition to be imposed should permission be granted to require the implementation of a programme of archaeological work.
- 3.3 The Council's Landscape Officer has recommended refusal of the application. They have commented that the application is not accompanied by a tree survey and the proposed removal of an area of trees, shrubs and ground cover to make way for the development will result in loss of habitat for a number of species which would not meet the aspirations of PPS9. The proposed footprint for the building and garage does not sit comfortably within the confines of the site, and there is a lack of provision of any meaningful private amenity space and no front or rear garden. No evidence has been provided to support the landscape setting for the proposal as being attractive, useful or socially and environmentally responsible.
- 3.4 The Council's Revenues department have commented that there does not appear to be any record of business rates being paid on the application site.

4.0 Town Council Representations

- 4.1 Sawbridgeworth Town Council objects to the proposal and states that the site lies within the Metropolitan Green Belt where permission will not be given except in very special circumstances. Referring to Policy GBC1 of the East Herts Local Plan Second Review, April 2007 no such special circumstances are apparent.

5.0 Other Representations

- 5.1 The application has been advertised by way of a press and site notice and neighbour notification.
- 5.2 2 letters of objection have been received from local residents which can be summarised as follows:-
- Inappropriate development on Green Belt land;
 - Loss of mature trees and shrubs;
 - Future development proposals on the remaining land at the site;
 - Distance to boundary and overlooking of nearby properties;
 - Additional traffic;

- Additional noise;
- Dust caused during construction and impact on health;
- Impact on existing views;
- No changes in circumstances since previous applications were made.

6.0 Policy

6.1 The relevant Local Plan policies in this application include the following:-

GBC1	Appropriate Development in the Green Belt
SD2	Settlement Hierarchy
ENV1	Design and Environmental Quality
TR7	Car Parking-Standards

In addition to the above it is considered that Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Guidance 2: Green Belts and Planning Policy Statement 3: Housing are considerations within this application.

7.0 Considerations

7.1 The determining issues in relation to this application is:

- Whether the principle of the development is acceptable, and whether very special circumstances exist; to warrant a departure from Green belt policy
- The impact of the development on the character and appearance of the area and neighbour amenity.

Principle of development

7.2 Both PPG2 and Local Plan Policy GBC1 outline specific types of development that are appropriate within the Green Belt, which includes agricultural related developments and essential facilities for outdoor sports and recreation. Residential development is not outlined as appropriate development within PPG2 and Policy GBC1 of the Local Plan. PPG2 states that inappropriate development is, by definition, harmful to the Green Belt and that the onus is upon the applicant to demonstrate that the harm caused by the inappropriate development would be clearly outweighed by other considerations. Very special circumstances must be demonstrated to allow the proposed inappropriate development and to justify a departure from local and

national policy.

- 7.3 An important consideration for this application is the history of previously refused planning applications made for residential development at this site. Of particular importance is application reference 3/04/1034/OP which was dismissed at appeal. This application sought outline planning permission for two dwellings on the site, but the exact siting of the dwellings on the site was not detailed. The inspector commented in their decision letter that *'development on the front part of the appeal site would represent an undesirable consolidation of the existing development on this side of London Road, even if the development were set back. Development on the rear part of the appeal site, were this to be proposed, would be tantamount to tandem development and represent an obvious incursion into land which is at present open. In my view, in whatever way the dwelling might be laid out there would be visible harm to the openness of the Green Belt, as well as harm by reason of inappropriateness.'*
- 7.4 Having regard to the above decision and the previous decisions on this site, it is necessary for the Council to consider whether there has been a change in policy or circumstances since the previous decisions which would now warrant a differing decision being made. Since the Inspectors decision the 2007 Local Plan has been adopted, which supersedes the policies against which the planning application and appeal were previously considered. However, there has been no significant changes to Green Belt Policy in this plan, and in addition, no changes to PPG2. Officers are therefore satisfied that there has not been any change in policy which would warrant a differing decision now being made.
- 7.5 The applicants have commented that special circumstances exist in this case to allow a departure from policy as they consider that the site constitutes previously developed land as it has a long established commercial use. They also comment that planning permissions have been granted for residential developments at other sites within the surrounding area.
- 7.6 Annex B of PPS3 defines 'previously developed land' as land which is or was occupied by a permanent structure, including the curtilage of developed land and any associated fixed surface infrastructure. This definition excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings). Officers do not question that the application site was previously used as

part of the commercial operations of the previous owners, Biss Vehicles Ltd. However, it would appear based on the information provided by the applicant and the information received from the Council's Revenues department that any previous commercial use ceased once the land was sold to the applicants and cleared in 1997. The existing site is undeveloped and the remaining concrete base appears very discreet within the site and is not visible from outside of the site. Officers consider that the concrete base, as the only remaining development at the site has blended into the landscape by the process of time and therefore the site fails to meet the definition of previously developed land within PPS3.

- 7.7 Notwithstanding the failure of the site to constitute 'previously developed land', PPS3, after defining what previously developed land is, states that there is no presumption that land that is previously developed is necessarily suitable for housing development nor that the whole curtilage should be developed. Officers consider that the application site is not suitable for housing development due to the detrimental impact that the development would have upon the openness of the Green Belt, and this concurs with the comments made by the Inspector in the 2005 appeal decision.
- 7.8 Officers have considered any possible fallback position, i.e. what the site could be used for should planning permission be refused for the proposed residential development. It is important to consider whether any permitted use of the site could be more harmful to the openness of the Green Belt than the proposed residential use. However, any operational development, including hard surfacing and the erection of any permanent structures on this site, would require planning permission and therefore the visual impact that such developments would have could be controlled through the planning system. Officers also consider that planning permission is likely to be required to reinstate any commercial use at the site. This is due to the current undeveloped condition of the site; the time that has lapsed since the clearance of the site; the cessation of the commercial use in 1997 and the applicants intentions to introduce a residential use rather than reinstate the previous commercial use at the site (which is demonstrated by the numerous planning applications made for residential development since 1998). The likelihood of the site being reinstated for a commercial use and the impact that this could have upon the openness of the Green Belt is not considered to be so significant as to outweigh the harm that would result from the grant of planning permission for a residential use.
- 7.9 The attempts made by the applicants to retain a large area of planting to

the frontage of the site in order to screen the development are noted and Officers accept that this would go some way to reduce the visual impact that the development would have when viewed from the highway. Notwithstanding this, the proposed 2 storey dwelling and garage combined with the amount of hard surfacing that is proposed; the resulting domestic paraphernalia that would be likely to occur with a residential use; and the increased activity and movements to that currently occurring at the site, would cumulatively represent an intrusion upon the openness of the Green Belt.

- 7.10 PPG2 states that inappropriate development is, by definition, harmful to the Green Belt. Returning to the Inspectors decision in 2005 on the previous application he stated that *'in whatever way the dwelling might be laid out there would be visible harm to the openness of the Green Belt, as well as harm by reason of inappropriateness.'* Officers consider that the Inspectors concerns still stand and that not only is the proposal inappropriate development and therefore by definition harmful to the Green Belt, but that the circumstances of the site and the development that is proposed substantiates this. The proposed buildings and associated hardstanding would result in the loss of an existing openness that is maintained at the site and would instead appear visually intrusive, contrary to the aims of growth restraint and the maintenance of openness within the Green Belt as set out within PPG2 and Policy GBC1 of the Local Plan.

Planning permission granted within the surrounding area

- 7.11 The applicants have made reference to other planning permissions, at The Wellands and the Clam Brummer site, granted within the surrounding area and argue these are part of the special circumstances that should allow a departure from Policy in this case.
- 7.12 Planning permission was granted for a replacement dwelling at the Wellands, a site located approximately 80 metres to the north of the application site, in 2007 under Ipa. Reference 3/07/0182/FP. This application was subject to the consideration of different criteria to the current proposal in terms of planning policy. PPG2 as well as the relevant Local Plan Policy at the time of this decision, RA2 of the 1999 Local Plan, allow for replacement dwellings as appropriate forms of development within the Green Belt, where as a new dwelling house constitutes inappropriate development that is contrary to PPG2 and GBC1 of the current Local Plan. In the case of the approved replacement dwelling at the Wellands it was found that the existing dwelling and the adjoining workshop, due to their prominent siting

fronting onto London Road and their poor appearance, were of sufficient detriment to the character of the area and the Green Belt to justify the approved replacement dwelling. Officers do not consider that the replacement dwelling that was granted planning permission at the nearby site, forms justification for the residential development proposed by this application.

- 7.13 The applicants have also made reference to another site in London Road known as Clam Brummer, which is situated approximately 700metres south of the application site. Planning permission was granted for the demolition of existing factory buildings at this site and the erection of 4 dwellings in 2002, under lpa. reference 3/02/0833/OP. This application resulted in the loss of a large factory building and a significant improvement to highway safety and therefore it was found that there were very special circumstances in that case. The current application site, upon which no commercial use currently occurs and no buildings exist, is not directly comparable to the significant industrial use and the permanent and substantial buildings that were in place at the Clam Brummer site. The Inspector's appeal decision in 2005 on the previous application for residential use at the application site commented on the Clam Brummer site and confirmed that the circumstances of this site were very different to the application site that they were considering.

Impact on surrounding area/amenity

- 7.14 Policy ENV1 expects new development to complement the existing pattern of development within the area. The nearby residential properties front onto London Road. The proposed dwelling would be set back from the highway by a distance of approximately 23metres and a distance of approximately 21metres from the frontage of the adjacent property to the north, White Cottage. Although the neighbouring dwelling, The Dell, to the south of the site is set back approximately 16metres from the frontage of White Cottage, the proposed dwelling would represent a more substantial set back and a break in the pattern of development. However, Officers do not consider that this break in the pattern of development would be of substantial harm to the character of the area to justify the refusal of the proposal for this reason.
- 7.15 Part (f) of ENV1 states that development proposals should consider the impact of any loss of open land on the character and appearance of the locality. Officers acknowledge that the proposal does consider the loss of the open space and some measures have been taken to attempt to reduce the visual impact that the development would have, such as with the retention of the area of trees to the front of the site and the set back

3/09/1247/FP

of the dwelling from the highway. Compliance with part (f) of ENV1 does not however, negate Officers views that that the proposed development on the existing undeveloped site would be visually harmful to the openness of the Green Belt.

- 7.16 An Ash tree is proposed to be removed within the site and the development proposal would result in the clearing of other plants, including, bushes and shrubs. In accordance with the advice received from the Council's Landscape Officer the ash tree and other landscaping at the site proposed to be removed are not of sufficient value to justify refusing the planning application for this reason.
- 7.17 The objections received from the neighbouring residents have been considered. The proposed development is likely to have most impact upon the neighbour to the north of the site, White Cottage. The main part of the proposed dwelling which is 2 storeys in height is proposed to be located in line with part of White Cottage at a distance of approximately 17 metres from the rear of the property. This part of the proposed dwelling forms a gable end projection and has no first floor windows. The garage would be located within 1 metre of the boundaries with this neighbour and therefore approximately 11 metres from the rear of White Cottage. A ground floor window is proposed within the side of the garage, however any views from this window into the garden or habitable rooms of White Cottage could be prevented by agreeing suitable boundary treatment at the site. The first floor windows shown on the plans within the north facing elevation of the dwelling are proposed as obscure glazed. Conditions attached to any planning permission granted to require these windows to remain obscured and for satisfactory boundary treatment adjacent to the ground floor windows on this elevation would ensure that the neighbouring occupier would not be overlooked.
- 7.18 The 2 storey part of the dwelling would maintain a distance of 2metres from the northern boundary and 1metre from the garage to the western boundary of the property with White Cottage. Officers consider that the proposed dwelling would appear overbearing upon this property and would be harmful to the outlook from this dwelling. The removal of existing planting along the north and west boundaries of the site with White Cottage would exacerbate the impact that the development would have upon this dwelling. The outlook from the rear facing rooms and garden area of White Cottage which is currently of open space and planting would be replaced by a view of the gable end of the proposed garage, 10metres from the rear of the property and the 2 storey gable end of the proposed dwelling 17metres from the rear of this neighbouring

dwelling. The proposed dwelling of this size and in such close proximity to the site's north and west boundaries with White Cottage would have an overbearing impact and would result in an outlook from this dwelling would be unacceptable, contrary to the aims of Policy ENV1 of the Local Plan.

- 7.19 With regards to the neighbours concerns relating to additional traffic and noise, it is considered that the level of disturbance that the proposal would cause to the neighbouring occupiers would not be unacceptable. In relation to the objection raised concerning dust, Officers do not anticipate that the dust caused during construction would be to a degree that would be unreasonable, to warrant refusal of the application, and should the level of any source of disturbance i.e. noise and dust this could be controlled through other legislation e.g. Environmental Health.

8.0 Conclusion

- 8.1 The proposed development constitutes inappropriate development within the Metropolitan Green Belt. The proposed development would be harmful to the openness of the Green Belt in conflict with PPG2 and Policy GBC1. Officers consider that the circumstances submitted by the applicant relating to the previous commercial use at the site are not considered to form very special circumstances which would be sufficient to justify a departure from policy and to outweigh the harm that the proposed development would have upon the openness of the Green Belt.
- 8.2 The previous reason for refusal relating to inappropriate development within the Green Belt that was applied to all previous applications made for residential development at this site and the inspector's comments on the 2005 appeal decision have not been overcome.
- 8.3 The inappropriate siting of the dwelling, together with its size, scale and height would overbearing and detrimental to the outlook of the adjoining dwelling, contrary to Policy ENV1.
- 8.4 Having regard to all of the above considerations it is recommended that planning permission is refused.