

5e 3/12/1130/FP – Erection of 1 No. three bedroom dwelling and garage at Former Biss Vehicles Site, London Road, Spellbrook, CM23 4AU for Mr and Mrs Smeeth

Date of Receipt: 05.07.2012

Type: Full – Minor

Parish: SAWBRIDGEWORTH

Ward: SAWBRIDGEWORTH

RECOMMENDATION:

That planning permission be **REFUSED** for the following reason:

1. The proposed development involves the provision of a residential dwelling within the Green Belt which represents inappropriate development within the Green Belt. The proposed dwelling, associated development and activities with a residential use would result in visible harm to the openness of the Green Belt. No very special circumstances have been put forward to outweigh the inappropriateness of the development and harm to the Green Belt and the proposed development is therefore contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework 2012.

_____ (113012FP.MP)

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. To the front boundary are various soft landscape features which obscure views into the site. There is a dropped kerb to the south of the frontage, with access for vehicular traffic into the site. The main central part of the site wherein the dwelling is proposed to be located appears generally open, with grass and some other vegetation. At the time of Officers site visit there was a small collection of broken up concrete which, the applicant indicated used to form a concrete pad. There is a mixed boundary treatment with neighbouring properties, including some fairly significant sized conifers with the neighbouring property, The Dells. Further within the site and to the east is a large collection of trees. The land slopes away steeply further to the east where there is a small dilapidated timber framed building.
- 1.3 The area immediately surrounding the application site comprises of

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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 wash building and beyond that, a company known as Rapid Platforms and, beyond that a car dealership.

- 1.4 The proposal is for a 2 storey dwellinghouse that would form an L-shape building with an attached double garage. The dwelling would front towards the adjacent highway, but would be set back around 20 metres from the road.

2.0 Site History:

- 2.1 There is a very long planning history to this site which relates to successive attempts to obtain permission to erect a dwelling or dwellings on it. In all cases, as can be seen below, the applications have been refused and in several cases, subsequent appeals have also been dismissed by the Planning Inspectorate.
- 2.2 In 1998 LPA reference 3/97/1770/OP, was refused for a detached dwelling and a garage at the 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.
- 2.3 A subsequent application for a detached dwelling and garage, made under lpa. reference 3/98/1779/OP 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.
- 2.4 An application submitted for outline permission for a detached dwelling under LPA reference 3/00/0672/OP was withdrawn in 2000.
- 2.5 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.

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- 2.6 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 again dismissed at appeal in 2005.
- 2.7 Within LPA reference 3/09/1247/FP an application was submitted for the erection of 1 dwelling and a garage. This was refused permission at the October 2009 Committee meeting due to inappropriate development within the Green Belt and the impact that the development would have upon the adjoining neighbour.
- 2.8 Within LPA reference 3/10/0679/FP consent was sought for the erection of 1 dwelling and a garage. This was however refused planning permission due to an inappropriate form of development within the Green Belt.
- 2.9 The most recent history relates to LPA reference 3/12/0609/FP in which planning permission was again sought for the erection of a detached dwelling on the site. That application was received after the publication of the NPPF in March 2012 and full consideration was therefore given to that new policy document during the consideration of the application. Officers considered however that the policies of the NPPF (like those that existed previously in PPG2 which it replaced) do not lend any support to the proposed development and accordingly, planning permission was again refused for the following reason:-
- 1. The proposed development involves the provision of a residential dwelling within the Green Belt which represents inappropriate development within the Green Belt. The proposed dwelling, associated development and activities with a residential use would result in visible harm to the openness of the Green Belt. No very special circumstances have been put forward to outweigh the inappropriateness of the development and harm to the Green Belt and the proposed development is therefore contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework 2012.*
- 2.10 No appeal has, as yet, been lodged in respect of that latest refusal of permission, although an appeal could be lodged with the Planning Inspectorate up until 19 December 2012. The applicant has chosen, instead, to submit a further application for consideration and has sought its referral to the committee.

3.0 Consultation Responses:

- 3.1 Hertfordshire Biological Records Centre recommends that site clearance be undertaken during the autumn and winter. If site clearance is undertaken outside of this period an ecological consultant should be employed to carry out a detailed hand search of the site for birds. If active nests are found, work must stop immediately and the area left undisturbed until the nest is no longer in use.
- 3.2 The Historic Environment Unit comments that the development site is within Area of Archaeological Significance No.162, as identified in the East Hertfordshire District Local Plan. This denotes the area immediately adjacent to the large Iron Age hill fort of Wallbury Camp (Scheduled Monument No EX16) just inside Essex. Evidence for settlement of Roman date has also been recorded to the south, near Spellbrook Farm. The area therefore has significant potential for the discovery of archaeological remains of later prehistoric and Roman date and, in addition, its situation in the valley bottom adjacent to the River Stort, suggests that it has potential for the survival of palaeo-environmental deposits. The significance of the site is such that the archaeologist considers that it is necessary and reasonable to attach a planning condition requiring a programme of archaeological work in accordance with a written scheme of investigation.
- 3.3 Hertfordshire County Highways comment that they do not wish to restrict grant of permission. The principle of development is acceptable in a highway context – there is an existing dropped kerb but improvements are necessary within the highway to provide hard surfacing of the verge crossing and strengthening of the footway area, which are recommended as conditions.
- 3.4 The Councils Drainage Engineer comments that the site is within flood zone one and is away from the surface water inundation zones. The proposed development site is within 100m of a river although there are no historic records of flooding. The development proposal shows a net increase in the amount of impermeable areas being created with potential increase in flood risk. The development does not appear to have adopted the recommendations of the East Herts SFRA and it is recommended that above ground SUDs be utilised.

4.0 Town Council Representations:

- 4.1 Sawbridgeworth Town Council objects to the application. They comment that the site lies within the Green Belt where permission will not be given except in very special circumstances. No such very special

circumstances exist in this application.

5.0 Other Representations:

5.1 The application has been advertised by way of press notice, site notice and neighbour notification. No letters of representation have been received.

6.0 Policy:

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

GBC1	Appropriate Development in the Green Belt
ENV1	Design and Environmental Quality
ENV2	Landscaping
TR7	Car Parking - Standards
BH1	Archaeology and New Development

6.2 In addition to the above, the National Planning Policy Framework (NPPF) is of relevance.

7.0 Considerations:

7.1 The main planning issues for consideration in the determination of this application are as follows:

- Principle of development;
- Impact on the openness of the Green Belt, other harm and very special circumstances;
- Impact on neighbour amenities.

Principle of development

7.2 Policy GBC1 of the East Herts Local Plan Second Review sets out 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 Policy GBC1.

7.3 The proposed development therefore represents an inappropriate form of development in the Green Belt, as defined in policy GBC1 of the Local Plan. In accordance with the NPPF (paragraph 214) the Authority should give full weight to the policies of the adopted Local Plan for a period of 12

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months following the publication of the NPPF. Officers consider it clear therefore that the proposed development remains inappropriate in the Green Belt and is contrary to the provisions of the adopted Development Plan.

- 7.4 As such, it should not be approved unless very special circumstances can be demonstrated that clearly outweigh the harm caused to the Green Belt by reason of inappropriateness, and any other harm.
- 7.5 The applicants' position in this case, however, is that the policies of the NPPF support this proposal in principle because it states that "limited infilling or the partial or complete redevelopment of previously developed sites" should not be regarded as inappropriate development. They consider therefore that, as the NPPF is more up to date than the Local Plan, that this lends support to this proposal.
- 7.6 Officers cannot however agree with this argument. Firstly, Members should note that, as set out above, the NPPF indicates that full weight should be given to the policies of the Local Plan for a period of 12 months from its publication (March 2012) even where there is a limited degree of conflict with the framework.
- 7.7 Secondly, it should be noted that the general thrust of chapter 9 (Green Belts) of the NPPF is broadly similar to PPG2 (Planning Policy Guidance 2) which has been cancelled and replaced with the NPPF. Within the NPPF there is the same emphasis on preventing urban sprawl in the Green Belt by keeping land permanently open and it states that the essential characteristics of Green Belts are their openness and their permanence. The reasons for including land within the Green Belt in the NPPF also reflect those set out previously in PPG2. There is therefore very little change in the policy context relevant to this site.
- 7.8 Paragraph 89 of the NPPF does indicate that the construction of new buildings in the Green Belt is not inappropriate where, inter alia, it constitutes "limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development." It is this specific part of the NPPF which the applicant relies upon in support of the application.
- 7.9 However, 'previously developed land' is defined in the NPPF as " Land which is or was occupied by a permanent structure"....but excludes "land that was previously-developed but where the remains of the permanent

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structure or fixed surface structure have blended into the landscape in the process of time”.

- 7.10 Officers consider that, in this case, the application site falls into this latter category.
- 7.11 The applicant refers the Council to a previous appeal decision on the site wherein the Inspector indicated that there was no reason to dispute the evidence that the site was previously developed. Officers accept that, as 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 previously provided by the applicant and the information received from the Council’s Revenues department from a previous application that any commercial use of the site ceased once the land was sold to the applicants and cleared approximately 15 years ago, in 1997.
- 7.12 There was previously a concrete pad on the site. However, during a site visit it was observed that there was a small pile of rubble which the applicant advised used to form a concrete pad on the site. Furthermore, there is a small timber framed building further into the site which is shown on the site plan submitted with the application.
- 7.13 The concrete pad was, as Officers understand, located to the north east of the site and was located adjacent to a tree. That concrete has however now been removed and forms a small pile of rubble on the site. There is therefore no longer a fixed surface structure within the site.
- 7.14 With regards to the existing building, this structure is extremely dilapidated and is not a large structure. It is located in a corner of the site and is well screened and nestled within existing landscape features.
- 7.15 In accordance with the above considerations, Officers are of the opinion that there is no fixed surface structure within the site and the one remaining structure appears to have blended into the landscape over the passage of time. In accordance with the above considerations, therefore, Officers do not consider that the site represents a previously developed site, as defined in the NPPF.
- 7.16 Even if this were accepted, Officers do not consider that the other requirements of paragraph 89 of the NPPF would be met by this proposal in any event. This requires, as mentioned previously, that any new development should ‘*not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*’

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- 7.17 The proposed new building would clearly result in a greater impact on the openness of the Green Belt, and the purpose of including land within it, than the existing development on the site. As noted above, the only fixed 'development' on the application site was a concrete pad which has been removed, and a small dilapidated timber building which has blended into the landscape and is not able to be viewed from any public vantage point. The site generally appears as an open landscaped gap which breaks up the rhythm and pattern of development within the street scene. Officers consider that the provision of a new residential dwelling would result in a far greater impact than a modest section of concrete at ground level and a small dilapidated timber building which has blended into its setting.
- 7.18 In accordance with the above considerations, therefore, Officers are satisfied that the proposed development represents inappropriate development in the Green Belt, and is contrary to the provisions of both the NPPF and the adopted Local Plan.
- 7.19 Despite the applicant's position, Officers do not consider that any support for the development proposal can be found within the NPPF. The development remains, by definition, harmful to the Green Belt and other harm is also identified in this case from the loss of openness that would occur as a result of the proposal.

Other harm

- 7.20 In this respect, Officers are mindful of the recent application, refused in October 2009, and application reference 3/04/1034/OP which was dismissed at appeal. Application 3/04/1034/OP sought outline planning permission for two dwellings on the site and the inspector commented in the appeal 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.'*
- 7.21 Officers acknowledge the attempts made by the applicant to retain an area of planting to the frontage and to the rear of the site in order to screen the development. Notwithstanding this however, the proposed 2 storey dwelling and garage, combined with the amount of hard surfacing that is proposed; the resulting domestic paraphernalia that would be

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likely to occur with a residential use; and the increased activity and movements to the site, would represent a significant loss of openness in the area.

- 7.22 In accordance with the Inspectors previous comments that '*in whatever way the dwelling might be laid out there would be visible harm to the openness of the Green Belt*', Officers consider that this proposed development would cause visible harm to the openness of the Green Belt.
- 7.23 Consideration also has to be given as to whether any other harm might be associated with the development proposal in respect of highway safety; the impact on the historic environment (archaeology) or neighbour amenity matters.
- 7.24 Having regard to the comments from the Highways Officer and the County Archaeologist, as set out earlier within this report, Officers are satisfied that any potential harm relating to these matters could be mitigated through the provision of appropriate planning conditions. These matters do not therefore weigh against the proposal in terms of harm.
- 7.25 With regards to matters of neighbour amenity, taking into account the siting and distance of the proposed development in relation to neighbouring properties, it is also considered that the development will not result in significant harm to neighbour amenity in terms of overbearing impact, loss of light, privacy or overshadowing. No weight is therefore given to any harm arising in respect of neighbour amenity.
- 7.26 Nevertheless, there is harm identified in this case by reason of inappropriateness and loss of openness/visual impact and, therefore, in accordance with national and local planning policy, planning permission ought not to be granted unless there are other material considerations which outweigh the harm identified such as to constitute the very special circumstances necessary to justify the inappropriate development.

Other material considerations/Very special circumstances

- 7.27 The applicant does not put forward any other material considerations in this case to outweigh the harm caused and, having regard to the history of the site and previous submissions in respect of this issue, there are not considered to be any very special circumstances which would outweigh the inappropriateness of the development and the harm to openness.

8.0 Conclusion:

- 8.1 The proposed development constitutes inappropriate development within the Metropolitan Green Belt as defined in policy GBC1 of the Local Plan and the NPPF. Having regard to the above considerations, Officers consider that the development is harmful by definition and will also cause significant harm to the openness and character of the site. There are no very special circumstances in this case which would outweigh the harm caused and, in accordance with national and local planning policy, therefore, planning permission should not be granted.
- 8.2 The previous reason for refusal, relating to inappropriate development within the Green Belt, that was applied to all the previous applications made for residential development at this site, including the refusal in 2009 and 2010 and the Inspector's comments on the 2005 appeal decision have not been overcome and the NPPF does not alter the policy presumption against the development. Officers therefore recommend that planning permission is refused.