

Town & Country Planning Act 1990 s.78

LAND ADJACENT AND TO THE REAR OF 52 HARRIS LANE, SHENLEY, HERTS

APP/N1920/W/22/3311193

OPENING STATEMENT

On behalf of the Local Planning Authority

18 April 2023

Introduction

1. This planning inquiry is really a case about competing priorities. It is not black and white, or binary. On one side is the key national planning policy priority to protect the Green Belt. There can be no real doubt about that priority's position in the hierarchy of priorities addressed by planning policy. It may be about to be given even greater prominence.
2. National Green Belt policy is absolutely clear that its aim is to keep the Green Belt open – i.e., free from inappropriate development such as the proposals being presented this week. The Government says squarely that it attaches great importance to Green Belts. These proposals cut directly across that priority. They would replace 1.7 hectares of open Green Belt land with built development, by way of an extension of the village of Shenley. Unless very special circumstances arise, there is no question of planning permission being granted here.
3. That same Green Belt policy requires those words – '*very special circumstances*' – to be given their proper meaning. The words are not to be reduced to a mantra. They serve to emphasise the fundamental importance of keeping Green Belt land open. It should not be the ordinary case in which planning permission to develop almost 2 hectares of Green Belt land is granted. In that context it is surprising to read the Appellant's team downplay the harm to the Green Belt that will be entailed by these proposals. The harm is real, and would be significant. It will be visible from a range of viewpoints, including at some distance. There is also obvious conflict with at least one of the five 'purposes' for designating land as Green Belt: this would self-evidently amount to encroachment of built form into the countryside. As a minimum, the harm to the Green Belt must be given substantial weight.
4. In addition to that harm, the Council (through Mr. Radmall) makes the case that there will be harm to the character of the area, and by way of visual impact, too, irrespective of its Green Belt location. His analysis is careful, detailed, and thoughtful. It should provide you with a robust and transparent framework within which to reach your own

judgments about this aspect of the case, and form an overall assessment of the harm that would be caused by these proposals.

5. There is one wrinkle: the Appellant introduced, for the first time in its evidence, so-called 'visualisations' of the scheme produced by technological manipulation of photographs. The Council does not accept these as reliable, for the reasons explained carefully by Mr. Spence in his short rebuttal, upon which Mr. Radmall relies. There is a short way around this: the visualisations should be treated as no more than 'artist's impressions' of what the development might look like (which perhaps fits, given that this is an outline application and to date three iterations of the illustrative masterplan have been produced), and on that basis no more needs to be said about them. Beyond that, the Council maintains that they should be treated with caution.
6. On the other side of the equation there are a collection of other national priorities: delivering more housing in a district of significant deficit, more affordable housing where it is acutely needed, and some more self-build plots; a 10% overall gain in biodiversity.
7. In large part the Council accepts these benefits; the real dispute being the weight they should attract in the planning balance. Their examination should not take up a great deal of inquiry time (which is not to downplay them: it is to recognise that in most cases they are essentially agreed). It must not be forgotten that what is proposed here is 37 houses, of which 15 will be affordable. The proposals are considerably smaller in scale than some of the schemes relied upon by the Appellant's evidence as comparators. The weight their payload of new housing attracts must, too, be smaller.
8. We acknowledge that much of this afternoon will be taken up discussing whether the Council's forward housing supply is 2.25 years or 1.58 years. The Council's position is, frankly, that that discussion takes matters no further forward: Ms. O'Brien's evidence is clear that whether it is 2.25 or 1.58 years makes no material difference to the weight she affords to the delivery of 37 houses here. The shortfall is substantial, and isn't going to be made up any time soon. We would be surprised if Mr. Brown thinks it makes any difference either. You may take the same view.

9. The site was one of a number of sites identified in the Regulation 18 version of the emerging local plan as potential allocations for new housing. That is plainly in the site's favour here, but some perspective is required: that plan was at a very early stage, with many thousands of representations taking issue with its proposed choices; it would have attracted limited weight at best had it not been set aside, but set aside it has been. That *must* reduce the already-limited role its contents should play in this appeal.
10. That is not to say the evidence base documents are irrelevant: they are not. But they are directed at that process – the process of drawing up a new local plan for the whole Borough, requiring a comparative assessment of very many candidate sites and a strategic approach to Green Belt release to meet housing needs arising. They cannot answer the question posed in this appeal. They are relevant background context, but no more.
11. You will have to assess each side of that balance, attributing the right amount of weight to each of the factors. If the benefits of the scheme, weighed properly, are sufficient to clearly outweigh the undoubted harm it will cause, everyone agrees that planning permission should follow: questions of the tilted balance, and weight to policies of the adopted (or once-emerging) plan do not really advance matters. Similarly, if they do not (which is the Council's conclusion), then everyone accepts that national policy demands refusal of the scheme. That question is literally determinative of the appeal.
12. Because this is a balancing of competing priorities, there is no easy or straightforward answer. The answer will emerge from an overall judgment, itself taking in a series of judgments about the weight to be attached to the various elements, about how best to reconcile those competing priorities. That is at the heart of this appeal. The competing priorities cannot *all* be served by granting (or refusing) permission here.
13. In the course of the next few days the Council will seek to persuade you that the proper outcome of that exercise in balancing priorities is to dismiss the appeal and keep this part of the Green Belt permanently open.

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18 April 2023