

Appeal Decision

Site visit made on 13 September 2016

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 October 2016

Appeal Ref: APP/B1740/W/16/3150326

Land off Lower Pennington Lane, Lymington, Hampshire SO41 8AL

- 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 HJC Land Trust against the decision of New Forest District Council.
 - The application Ref 15/11652, dated 13 November 2015, was refused by notice dated 10 February 2016.
 - The development proposed is the construction of a bungalow with an attached garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. An application for costs was made by New Forest District Council against HJC Land Trust. This application is the subject of a separate Decision.
3. Although one of the Council's reasons for refusing the application relates to affordable housing, in the light of the updated Planning Practice Guidance, the Council no longer seeks a contribution to affordable housing. Accordingly, the absence of a planning obligation in this respect does not weigh against the proposal.

Main Issues

4. The main issues are therefore:
 - whether the proposal would be inappropriate development in the Green Belt;
 - its effect on the openness of the Green Belt;
 - its effect on the character and appearance of the area;
 - if it is 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; and,
 - whether the site of the proposed new dwelling would be appropriate, having regard to national and local planning policies relating to development in areas at risk of flooding.
-

Reasons

5. The site the subject of this appeal is an open field of scrub adjacent to Lower Pennington Lane screened by trees and hedges on its eastern and southern boundaries. To its north stands a residential barn conversion and across a smaller lane to the south, another residential use. Across the Lane to the east lies open countryside, and to the west, beside an open field, stands a solar array. Located outside any settlement boundary in the countryside, the site falls within the Green Belt. It is proposed to erect a 4-bedroom bungalow.

Inappropriate development in the Green Belt

6. Policy CS10 of the Spatial Strategy of the New Forest District (outside the National Park) Core Strategy, adopted 2009 (CS) aims to retain and support the Green Belt in order to check the sprawl of built-up areas, to safeguard the countryside from encroachment and to preserve the setting of towns and villages.
7. The National Planning Policy Framework 2012 (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate development in the Green Belt. A number of exceptions to this however are set out in paragraph 89 of the Framework.
8. The appellant refers to the site being previously developed land. For the sake of clarity, as regards the exception of the redevelopment of a previously developed site, the land was not occupied by any permanent structures at the time of my site visit. The appellant has provided no details regarding the previous use, and while I note the historic, aerial photographs of buildings on the site, the Council contend that these were chicken sheds. On the evidence before me, I consider that the buildings which previously occupied the land were agricultural buildings. The site is therefore not previously developed land as defined in Annex 2 to the Framework, and accordingly not the exception as described in bullet point 6 of paragraph 89.
9. Of the other exceptions, the most relevant to this case is limited infilling in villages. However, the site is located outside any settlement boundary, around half a kilometre from the settlement of Lymington and Pennington. While I acknowledge the houses standing to the north and south of the site, the houses on the Lane are few in number and scattered sporadically. The land to the west and to the east beyond the Lane is open fields. In this spatial and policy context, the site cannot reasonably be considered to be in a village, the limited infilling in which is given as an exception in paragraph 89.
10. I conclude therefore that the proposal would be inappropriate development in the Green Belt, which paragraph 87 of the Framework states is, by definition, harmful and should not be approved except in very special circumstances. Paragraph 88 of the Framework states that in considering a planning application, substantial weight should be given to any harm to the Green Belt.

Openness of the Green Belt

11. The fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to prevent urban sprawl by keeping land permanently open. Openness has a visual as well as a spatial aspect. As I conclude below, while

the proposal would be single storey and the site boundaries to the south and east are well screened, the extended footprint of the proposed dwelling would make it conspicuous in the Green Belt, particularly in views of the site from the north and west. Together with the formation of a domestic driveway, as well as the paraphernalia of domestic occupation, the proposal would be visually intrusive in the Green Belt. The increase in the volume and height of development on the appeal site, when compared with the existing situation without any structures, would reduce the amount of space not occupied by built form, and thereby diminish the openness of the Green Belt. These factors weigh against the proposal.

Character and appearance of the area

12. The Council objects to the suburban appearance of the proposal in the setting of a distinctive rural vernacular, and considers that its relatively large footprint and long driveway, together with the paraphernalia of domestic occupation, would result in the urbanisation of the site in the countryside.
13. I saw that while many of the older buildings off the Lane displayed the characteristics of the rural vernacular suggested by the Council, including painted brick walls under hipped roofs of clay tiles with small dormers, more recent developments included large, plain-brick gables under concrete-tiled roofs. In this respect, the appearance of the building could be conditioned to require the submission of design details and materials for the Council's approval, as suggested by the appellant, which would make the building's appearance acceptable.
14. Notwithstanding this, and while I take into account the residential buildings to the north and south, the undeveloped site has a significant bearing on the open land to the west and beyond the Lane to the east as well as to the overall rural character of the surrounding countryside. In this context, the views along the driveway from the Lane as well as the domestic activity and paraphernalia such as lighting, car-parking, garden furniture and the like would have an urbanising effect on the surroundings and would erode the rural character of the area.
15. I conclude on this issue that the domestic nature of the proposal would have an adverse visual impact on the tranquil character of the site and the appearance of the countryside. It would conflict with CS Policies CS2 and CS10 which seek, amongst other things, development that is well designed to respect the character, identity, and context of the countryside and retain and support the Green Belt by safeguarding the countryside from encroachment by built development.
16. It would be at odds too with Policy DM20 of the Local Plan Part 2: Sites and Development Management, adopted 2014. This permits residential development in the countryside where it extends an existing dwelling, replaces an existing dwelling, provides affordable housing or is for an agricultural worker's dwelling, and requires development in the countryside to be of an appropriate design, scale, and appearance in keeping with the rural character of the area.

Other considerations

17. The Framework advises that inappropriate development in the Green Belt should not be approved, except in very special circumstances. Very special

circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

18. The appellant contends that the site is in a sustainable location, and that the Council accepts that the site is not remote from services. However, it is beyond the development boundary of Pennington and Lymington in an area of open countryside where houses are isolated and scattered sporadically. The Framework advises that the creation of new, isolated homes in the countryside should be avoided unless there are special circumstances. Notwithstanding its proximity to services, the development of a house on this site would conflict with the environmental dimension of sustainable development as sought by the Framework in paragraphs 14, 17 and 55.
19. The provision of housing is a benefit of the proposal. However, this does not outweigh the harm identified. I therefore conclude that the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist in this case.

Whether the site would be appropriate having regard to flooding

20. While most of the appeal site lies within Flood Zone 1, alongside its eastern boundary runs a main river. I have been provided with a Flood Map which indicates part of the site's eastern edge to lie within Flood Zones 2 and 3, and the appellant states that flooding to a depth of 40mm may occur within the site on a narrow strip adjacent to Lower Pennington Lane.
21. Lower Pennington Lane, which would provide access and egress to the site via its south-east corner, falls within Flood Zone 3. The appellant suggests the south-east corner of the site would be susceptible from flooding from tidal events, and that parts of the Lane may be affected by flooding from both the river and the sea, with flood depths of up to 240mm from the watercourse, and up to 900mm from tidal inundation within the lifetime of the development.
22. The development plan for the area sets out in CS Policy CS6 that flood risk will be taken into account to avoid inappropriate development in areas at current or future risk from flooding, and to direct development away from areas of highest risk in accordance with the Sequential Test.
23. This approach is consistent with that set out in the Framework which requires that development is only considered in areas at risk of flooding following the application of the Sequential Test and, only if required, the Exception Test, as informed by a site-specific Flood Risk Assessment. The Framework and the associated National Planning Practice Guidance, confirm that the purpose of the Sequential Test is to steer development to areas with the lowest probability of flooding, and that development should not be permitted if there are reasonably available sites appropriate for the proposal in areas at lower risk.
24. There is no Sequential Test provided by the appellant. I conclude therefore that as the appellant has not demonstrated that there are no reasonably available sites at lower risk of flooding, the proposal fails the Sequential Test and the appeal site does not represent an appropriate site for the proposed development, contrary to Core Strategy Policy CS6 and the Framework in this regard.

Other matters

25. Whilst I have considered concerns from neighbours including in relation to additional traffic and highway safety, given my findings on the main issues above, these have not led me to a different overall conclusion.
26. The Council has indicated that to the north-west of the site is a Grade II listed building, Lower Pennington Farmhouse. While the Council does not object to the proposal in terms of the impact on its setting, I have nevertheless undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting, or any features of architectural or historic interest which it possesses. In view of the single storey scale of the proposal and the distance between the proposed house and the listed building, as well as the screening on the boundary of Lower Pennington Farm, I consider that the setting of the listed building would be unaffected and therefore preserved.

Conclusion

27. Taking into account all matters raised, for the reasons given above, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR