
Appeal Decision

Site visit made on 11 October 2016

by Alex Hutson MATP CMLI MArborA

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

Decision date: 16 November 2016

Appeal Ref: APP/H2265/W/16/3154279

Oakhurst Farm, Bank Lane, Tonbridge, Kent TN11 8NR

- 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 Richard Murray against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/16/00520/FL, dated 15 February 2016, was refused by notice dated 22 April 2016.
 - The development proposed is "Construction of three detached houses, each with a detached double garage, with access from Bank Lane via existing site entrance."
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - Whether the countryside location of the proposal would be justified having regard to local and national planning policy; and
 - If the proposal is inappropriate development, whether or not there are material considerations which, together, clearly outweigh the harm to the Green Belt, and any other harm, and which amount to very special circumstances which would be necessary to justify the proposal.

Reasons

Inappropriate development

3. The appeal site is located within the Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. The most relevant in this case is Bullet Point 6 which sets out that limited infilling or the partial or complete redevelopment of previously developed sites is not inappropriate, providing it would not have a
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- greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
4. The Glossary in Annexe 2 of the Framework defines previously developed land (PDL) as land which is or was occupied by a permanent structure, including the curtilage of the developed land. However, it is set out within the definition that it should not be assumed that the whole of the curtilage should be developed. The definition also 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.
 5. The appeal site comprises an area of open paddock and an area of woodland, located to the south of Oakhurst Farm. A hard surfaced access track running from Bank Lane to the east of Oakhurst Farm also forms part of the appeal site. Existing built forms within the appeal site are predominantly limited to a modest sized single storey brick built stable and lean-to style shed, with a limited floorspace of approximately 70 square metres (sqm) in total, located to the north-east of the paddock area. A modest sized area of hard standing lies to the front of these buildings. Some redundant and in-filled ground level and below ground drainage structures are located within the area of woodland, though these are largely indiscernible owing to their woodland location and sunken nature. The appeal site is therefore largely undeveloped and is clearly open in character.
 6. I acknowledge the appellant's argument that some buildings previously existed within the paddock area, evidenced by photographs of the foundations of these buildings and historical mapping. Nonetheless, at the time of my site visit, these foundations were not visible and had blended into the landscape in the process of time. In any case, the evidence is inconclusive in respect of the heights or volumes of these past buildings. Therefore, I do not consider that the presence of any past buildings within the paddock area could reasonably be said to define this land as previously developed, having regard to the definition of such within the Glossary in Annexe 2 of the Framework. As such, the modest sized and low level built forms, in my judgement, comprise the extent of the appeal site which could reasonably be defined as PDL.
 7. On this matter, I have had regard to the case R (Lee Valley Regional Park Authority) v Broxbourne Borough Council and Britannia Nurseries which has been highlighted by the appellant. This judgment clearly confirms that the presence of some previous development within a site does not make the whole site PDL. My view in regard to the extent that the appeal site could constitute PDL is therefore reflective of this judgement.
 8. The proposal would demolish the stable and lean-to buildings and would introduce three, two storey detached dwellings with detached double garages onto the paddock area of the appeal site. Two of the dwellings would have an internal floorspace of approximately 260 square metres (sqm) and one would have an internal floorspace of approximately 230sqm. The floorspace of each detached garage would be approximately 81sqm.
 9. The considerable increase in height, floorspace and consequently volume of the proposed dwellings and garages over and above that of the existing built forms on the appeal site, would, in my judgement, have a significant and detrimental impact on the openness of the Green Belt and the purpose of including land within it.

10. I also do not consider that the proposal could reasonably be defined as 'limited infilling' in the context of Paragraph 89 of the Framework, given that it would provide three large dwellings and associated detached garages and given that their associated large rear gardens would extend a considerable distance beyond the southern extent of development consented on appeal¹ at Bank Lane Farm to the east of the appeal site.
11. Consequently, the proposal would not comply with the listed exceptions as set out in Paragraph 89 of the Framework. The proposal would therefore be inappropriate development in the Green Belt, which by definition is harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, Paragraph 88 of the Framework states that in considering a planning application, substantial weight should be given to any harm to the Green Belt. Policy CP3, of the Tonbridge and Malling Borough Council Core Strategy 2007 (Core Strategy), seeks to apply national Green Belt policy and is therefore consistent with the aims and objectives Framework in this regard. As such, the proposal would fail to comply with this policy.

Openness of the Green Belt

12. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. The introduction of three new, large dwellings onto the appeal site, given its predominantly undeveloped character, would inevitably affect its openness. Whilst existing development and vegetation provides some screening from public views along Banks Lane, I observed that some glimpsed views towards the appeal site could be obtained from along this road, including from the access to Oakhurst Farm and from the frontage of Bank Lane Farm. These views of the appeal site would be more pronounced during the winter months when any vegetation loses its leaves. In addition, views towards the appeal site are also likely to be obtained from the upper floor windows of some of the dwellings within Oakhurst Park Gardens that face the appeal site. The proposal would therefore be noticeable in the open landscape to the south of Oakhurst Farm.
13. For these reasons, the proposal would reduce the openness of the Green Belt and I afford substantial weight to that harm. This would be contrary to Policy CP3, of the Core Strategy.

Character and appearance

14. The appeal site, by virtue of its part open, part wooded character, strongly and positively contributes to the intrinsic rural character and appearance of the area. It is also well connected to the wider countryside given the lack of any strong or defensible boundaries along the southern edge of the open paddock area.
15. The proposed dwellings would comprise traditional hipped roofs and dormer style windows and would not, in my opinion, appear particularly at odds with other residential dwellings in the area. In addition, I acknowledge that they would broadly reflect the rear building line of a recently completed development in Oakhurst Park Gardens to the west of the appeal site. However, their presence would substantially erode the rural and open qualities

¹ Ref APP/H2265/W/15/3011999

of the appeal site given their large size and the limited degree of spacing between them.

16. The proposed dwelling on Plot 1 would be located within close proximity to a number of trees within Oakhurst Park Gardens which are growing close to the western boundary of the appeal site. The proposed dwelling on Plot 3 would be located within close proximity to trees within the area of woodland within the eastern part of the appeal site. Some of these trees are of a considerable size and are covered by a Tree Preservation Order. I note that the Council considers the impact on these trees could be dealt with by a tree survey that could be secured by a planning condition. However, without such a tree survey up front to support the proposal, in accordance with the relevant British Standard, I can not be certain that these trees would not be harmed. Given the positive contribution these trees make to the intrinsic wooded character and appearance of the appeal site and surrounding area, any damage to them which could lead to their subsequent loss, would result in further harm to the character and appearance of the area.
17. I therefore conclude that the proposed dwellings, by virtue of their scale, siting and layout, would represent an incongruous form of development that would result in significant harm to the character and appearance of the area. My view on this is notwithstanding that the appeal site lies outside the boundaries of the Kent Downs Area of Outstanding Natural Beauty.
18. The proposal would therefore be contrary to Policy CP24, of the Core Strategy; and Policy SQ1, of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010. These policies require, amongst other things, development to respect the character, appearance and local distinctiveness of the site and its surroundings. These policies are consistent with the broad aims and objectives of the Frameworks which seek planning to take account of the different roles and character of different areas and to recognise the intrinsic character and beauty of the countryside.

Countryside location

19. The appeal site lies outside of the confines of the settlements defined in Policies CP11, CP12 and CP13, of the Core Strategy, and therefore lies within the countryside for planning policy purposes. Policy CP14, of the Core Strategy, seeks to restrict development in the countryside to development which falls into a number of categories. These categories are identified in the list (a) to (i) of Policy CP14. The proposal would not fit into any of these categories and would thereby conflict with Policy CP14. This policy is broadly consistent with the first part of Paragraph 55 of the Framework which requires housing to be located where it will enhance or maintain the vitality of rural communities, for example where development in one village may support services in a village nearby.
20. The Council also considers that the proposal would be isolated and would therefore conflict with the second part of Paragraph 55 of the Framework that seeks to avoid isolated new homes in the countryside. The term 'isolated', in the context of Paragraph 55 of the Framework, is not defined. However, to my mind it has two distinct dimensions; firstly whether the site is physically remote from other buildings and secondly whether it has easy access to services and facilities.

21. The appeal site is located in the vicinity of other existing residential dwellings and land which has extant planning permission for new residential dwellings. The proposed dwellings would not, therefore, be isolated in this context. Whilst I acknowledge there are few shops or facilities within a close walking distance from the appeal site, there are bus stops on either side of the B245 near the entrance to Banks Lane, which are only a short walk from the appeal site. These bus stops provide a regular and daily service to nearby larger settlements, including Sevenoaks and Tonbridge and their associated shops, services and facilities. In light of these factors, I consider that any future occupiers would have a realistic alternative to the use of a private motor vehicle to reach the shops, services and facilities of these larger settlements.
22. I therefore consider that the proposal would not represent isolated dwellings in the countryside and would not conflict with the requirements of Paragraph 55 of the Framework in this regard. Moreover, my view on this matter is consistent with the view of the Inspector that considered the appeal in respect of residential dwellings at Bank Lane Farm.
23. Nevertheless, the proposal would clearly conflict with the aims of Policy CP14, of the Core Strategy which seeks to restrict development in the countryside to certain types. There is no substantive evidence before me to demonstrate that this policy should be considered out of date, in so far as it relates to the supply of housing. I therefore afford it significant weight in my consideration of the appeal.

Other considerations

24. I acknowledge that the provision of three high quality homes would make a positive, albeit limited, contribution towards housing supply in the Borough. The provision of short-term employment during construction and the expenditure associated with three additional households would support, albeit to a limited extent, the local economy. I have no reason to doubt that the dwellings would be constructed using sustainable building methods. Nevertheless, these benefits, in the wider scheme of things are limited, and consequently I afford them limited weight.
25. I note that the appellant highlights that the Council's Strategic Land Availability Assessment 2014/15 suggests the possible release some Green Belt land for residential development in the future. Nevertheless, there is no substantive evidence before me to indicate that the appeal site is being considered by the Council in this regard or that the Council is in the process of undertaking a Green Belt review. As such, this is not a material planning consideration to which I can afford any significant weight in the determination of this appeal.
26. Whilst the appellant draws my attention to the fact that the Council did not raise any concerns in respect of previous single storey extensions to Oakhurst Farm, Bullet Point 3 of Paragraph 89 of the Framework allows for such development. Moreover, it would be unreasonable to compare the development of single storey extensions to an existing dwelling with the development of three new detached dwellings in open countryside in respect of the effects of such developments on the Green Belt.
27. The merits of the recently completed development at Oakhurst Park Gardens and the consented development at Bank Lane Farm, whilst in close proximity

to the appeal site, were considered, with regard to their effect on the Green Belt, on the basis that a substantial level of built form already occupied both these sites. As such, I do not consider that these developments are helpfully comparable to the proposal I am to consider given the substantial lack of any built form on the appeal site, and do not, in my judgement, justify a planning permission in this instance.

28. The appellant makes reference to another consented planning application² within the Borough. Nevertheless, no detailed information has been provided to allow any informed comparison between that consented scheme and the proposal I am to consider under this appeal. Reference is also made to a consented scheme in Thanet District Council. However, again, no substantive details are provided and given that this scheme falls within the administrative boundaries of a different local planning authority and appears to be within a defined built up area, it would have been considered under a different planning policy context. I therefore afford limited weight to these consented schemes in my consideration of this appeal.
29. The area of woodland within the appeal site is designated as ancient woodland (AW). Whilst the Council raises no specific concerns in respect of the impact on the AW, I note that the submitted ecological assessment recommends a buffer is provided between the proposed development and the AW to afford it protection, in line with standing advice of Natural England. However, no such buffer is shown on the submitted plans. In light of this, in combination with my concerns in respect of the proximity of built form to trees within this woodland, I cannot be confident that no harm would arise to the conservation significance of the AW. This is therefore a matter that, in my judgement, weighs against the proposal.
30. I note some third party concerns, including in respect of privacy and noise and disturbance. However the Council did not raise these matters as a concern and on the basis of the evidence before me, I have no substantive reasons to take a different view.

Planning balance and conclusion

31. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have identified that the proposal would be inappropriate development in the Green Belt as defined by the Framework. I have also concluded that the proposal would harm the openness of the Green Belt. Substantial weight has to be attached to any harm to the Green Belt. In addition the proposal would be harmful to the character and appearance of the area and would be likely to have a detrimental impact on AW within the appeal site. Moreover, the countryside location for the proposed dwellings would conflict with the relevant policies of the development plan.
32. The benefits that would arise from the proposal would be limited and clearly would not outweigh the totality of the harm which is the test that they have to meet. Consequently, no very special circumstances exist that would justify inappropriate development being allowed.

² Ref 14/0344/FL

33. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR