
Appeal Decision

Site visit made on 4 January 2017

by Michael Boniface MSc MRTPI

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

Decision date: 11th January 2017

Appeal Ref: APP/D5120/W/16/3156559

Units A, B, C & D, Manor Freehold Farm, 67 Parsonage Lane, Sidcup, Kent, DA14 5EZ

- 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 David Smith, Cliffside Developments, against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/00290/FUL, dated 19 January 2016, was refused by notice dated 20 April 2016.
 - The development proposed is conversion of the existing building into 2 x four bedroom semi-detached dwellings.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) Whether the proposal is inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework) and whether it would have a greater effect on the openness of the Green Belt;
 - (b) Whether contamination on the site can be suitably remediated so as to provide safe living conditions for future occupants’;
 - (c) If the development is inappropriate, 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.

Reasons

Whether inappropriate development and the effect on openness

3. Policy 7.16 of the London Plan (2015) (LP), along with Policies CS01 and CS17 of the Bexley Core Strategy (2012) (CS) seek to protect the Green Belt from inappropriate development, consistent with the objectives of national policy. Policy ENV4 of the Unitary Development Plan (2004) (UDP) has similar objectives to protect the function, appearance and openness of the Green Belt and avoid inappropriate development. Whilst dated, this policy is consistent with the objectives of the Framework to protect the Green Belt and the appellant has not provided any evidence which persuades me otherwise; I attribute the policy full weight.

4. Policy ENV11 of the UDP states that residential development in the Green Belt will be opposed, other than in the case of a dwelling for an agricultural worker. This restrictive policy position is not consistent with the objectives of the Framework to promote sustainable development, including in rural areas, or to allow the reuse of existing rural buildings where appropriate. Therefore, I attach this policy little weight and must balance it against the policies of the Framework, an important material consideration.
5. Paragraph 79 of the Framework makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics, those being openness and permanence. Paragraph 87 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. New buildings are to be regarded as inappropriate development, subject to the express exceptions outlined in paragraph 89 and 90.
6. Amongst others, these exceptions include the re-use of buildings provided that the buildings are of permanent and substantial construction. There is no dispute between the parties that the building subject of this appeal can be described as such. However, this exception is subject to the caveat that development would preserve the openness of the Green Belt and not conflict with the purposes of including land in Green Belt.
7. The existing building would be re-used for residential purposes without extension. However, garden areas associated with the two dwellings would be enclosed by 2m tall close boarded fences, as would a new bin store to the front of the building. There would also be space provided to park vehicles and it is likely that domestic paraphernalia accompanying a residential use, including items such as washing lines, parasols and furniture that might be beyond the scope of planning control would also result. All of these items would have a volume and have some, albeit limited, impact on the openness of the Green Belt, as well as a domesticating effect on the character and appearance of the area.
8. The appellant does not dispute the presence of such items or the Council's position that they would harm openness, notwithstanding that the re-use of the building is said not to harm openness. Whilst the harm arising to openness is likely to be limited in this case, the development would be harmful nonetheless. Under these circumstances, the development does not meet the exemption set out above and the proposal would constitute inappropriate development. The development would also conflict with the purposes of the Green Belt to check the unrestricted sprawl of built-up areas and safeguard the countryside from encroachment. I attach substantial weight to the harm that would arise to the Green Belt.
9. In addition to the conflict with the Framework, the development would be in conflict with Policy 7.16 of the LP, CS01 and CS17 of the CS and Policies ENV4 and ENV11 of the UDP (albeit that Policy ENV11 attracts little weight).

Contamination

10. The site is known to be contaminated from its previous use as a maggot breeding farm. A Combined Phase 1 and Phase 2 Environmental Assessment (Ref. 61590R1, December 2013) accompanied the planning application but this

did not provide the Council sufficient comfort that the site could be suitably remediated for human habitation.

11. The appeal is accompanied by a further report, entitled Data Review and Validation Requirements (Ref. 61590.00.01R1, June 2016) which supplements the previous report, reviewing the previous data and setting out a validation strategy and reporting process. Although the Council maintains the view that insufficient information is available to establish that the site is suitable for a residential use, no objection has been raised to the supplementary report and no contrary evidence has been provided. As such, I have no reason to discount the conclusions reached in the report. Therefore, I am satisfied that contamination could be suitably dealt with by way of conditions attached to any planning permission and find no conflict with the Framework in this approach. This is a neutral matter in my considerations.

Other considerations

12. The building is currently surrounded by an extensive hard standing and its replacement with grass and other landscaping has the potential to improve the character and appearance of the area. I attach this benefit limited weight. Whilst this is so, the hard standing does not currently affect the openness of the Green Belt and so no benefit would arise in this respect.
13. I have had regard to the development granted planning permission by the Council at 65 Parsonage Lane but the Council suggests that this was considered some time ago in a different policy context and that the proposal had the effect of improving the openness of the Green Belt (through demolition of existing structures). There is no evidence before me to contradict that position. Therefore, I do not consider this development to be comparable to the appeal proposal, nor does it lend any support.
14. The Council has recently granted a Lawful Development Certificate (16/00291/LDCE) confirming use of unit A for B1(a) purposes and the appellant suggests that it would now be permitted development to convert this unit into a residential property. Whilst I acknowledge the existence of permitted development rights, such a change of use would require prior notification to the Council and potentially, the Council's prior approval. I attach this fallback position only limited weight as uncertainty remains as to whether the development could or would come forward, and the impacts of converting a single unit are likely to be less than for the appeal proposal.

Conclusion

15. I have identified that the proposed scheme would constitute inappropriate development in the Green Belt for the purposes of the Framework and would harm openness. I have considered the grounds presented in support of the development but together they do not outweigh the harm the scheme would cause. Consequently, the very special circumstances necessary to justify the development have not been demonstrated.
16. In light of the above, I conclude that the appeal should be dismissed.

Michael Boniface

INSPECTOR