
Appeal Decision

Site visit made on 4 January 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 27 January 2017

Appeal Ref: APP/M3645/W/16/3158416

Hawkesbury, Coopers Hill Road, Nutfield, Surrey RH1 4HX

- 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 Rory Gallagher against the decision of Tandridge District Council.
 - The application Ref TA/2015/2257, dated 21 December 2015, was refused by notice dated 6 September 2016.
 - The development is described as 'proposed brownfield residential redevelopment – Erection of new build dwelling; revised application in the alternative to permission granted under TA/2014/967 relating to proposed change of use from agricultural building to dwelling house with associated external alterations'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. For the purposes of clarification the appellant, at my request, has provided copies of the site location and block plans relating to a prior approval consent, dated 11 August 2014 and subject to application TA/2014/967/NC (the deemed permission) that concerns part of the site. The deemed permission would allow the open fronted, timber clad, barn within the site to be converted into a dwelling.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt; and
 - if the development would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development in the Green Belt

4. The development would involve the demolition of the barn and the construction of a three bedroom bungalow. The bungalow would have a floor
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area and volume similar to the barn that would be demolished. The bungalow would have a slightly different siting to the barn and its plot would have an area of 580 square metres, compared with the 163 square metres of the barn conversion scheme¹.

5. The National Planning Policy Framework (the Framework) states at paragraph 87 that inappropriate development in the Green Belt is harmful by definition and should not be permitted. However, paragraph 89 of the Framework lists six categories (exceptions) of development which may be regarded as not being inappropriate in the Green Belt, subject to certain circumstances. Under paragraph 89's fourth exception '... the replacement of a building ...' may be considered as being not inappropriate development provided that the replacement building would be in the same use and not materially larger than the one it replaces. Paragraph 89's sixth exception indicates that the partial or complete redevelopment of previously developed land (PDL), which would not have a greater impact on the Green Belt's openness, may also be considered as being not inappropriate development.
6. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014 to 2029 (the Local Plan), which was adopted in July 2014, states that inappropriate development within the Green Belt will normally be refused unless very special circumstances exist to the extent that those other considerations would clearly outweigh any harm to the Green Belt by reason of inappropriateness and any other harm. Policy DP13 of the Local Plan identifies a number of exceptions for new development in the Green Belt that may be considered as being not inappropriate and exceptions F and G respectively address replacement buildings and the redevelopment of PDL. Exceptions F and G essentially echo the fourth and sixth exceptions listed in paragraph 89 of the Framework.
7. The appellant states that works associated with the deemed permission have been commenced² and that the existence of that permission means that the site should be considered as being PDL, thus bringing the development within the scope of the sixth exception under paragraph 89 of the Framework and exception G of Policy DP13. The Council disputes that the works associated with the barn's conversion have been commenced and I saw no obvious sign of the conversion having been commenced in accordance with the terms of the deemed permission. Even if the conversion works have been commenced the barn on the day of my visit was incapable of being occupied as a dwelling.
8. I therefore consider that the available evidence does not demonstrate that the site's use has been changed from agricultural to residential through the deemed permission's implementation. Accordingly I consider that the site does not come within the definition of PDL set out in Annex 2 to the Framework because land that is occupied by an agricultural building. I also do not accept the appellant's claim that the mere existence of the deemed permission means that this site should be considered as being PDL. The bungalow would therefore not be within the same use as the barn to be demolished. I therefore find that the development does not gain any support under the fourth and sixth exceptions referred to in paragraph 89 of the Framework or exceptions F and G of Policy DP13.

¹ These areas being taken from the figures quoted in the Council's officer report

² Page 1 of the submitted Design and Access Statement

9. Notwithstanding the difference of opinion about whether or not the barn conversion has been commenced the development would include land that is not covered by the deemed permission. Accordingly the development would in part involve a change of use falling outside the scope of paragraph 89's fourth exception and exception F under Policy DP13.
10. As the construction of the bungalow would not come within any of the exceptions referred to in either paragraph 89 of the Framework or Policy DP13 of the Local Plan, I conclude that this proposal would be inappropriate development within the Green Belt. The development would therefore, by definition, be harmful to the Green Belt, having regard to paragraphs 87 and 89 of the Framework and Policies DP10 and DP13 of the Local Plan. Accordingly because of the development's inappropriateness I find that great weight should be given to that harm.

Green Belt Openness

11. Paragraph 79 of the Framework advises that openness is an essential characteristic of the Green Belt. The bungalow would stand within a field, which apart from the barn to demolished, is generally free from built development.
12. The bungalow would be comparable in scale to the barn that would be demolished and in that respect the development would have a neutral effect on the openness of the Green Belt. However, the plot for the bungalow would be considerably larger than that for the dwelling subject to the deemed permission. As the bungalow would have more external space associated with it, the domestication associated with this development has the potential to have a greater effect on the openness of the Green Belt than would be the case for the scheme subject to the deemed permission.
13. While the loss of openness associated with the appeal development would be quite localised, there would nevertheless be a small negative effect in this respect. There would therefore be some conflict with Paragraph 79 of the Framework and the reduction in the openness of the Green Belt would give rise to some harm, in addition to that arising from the inappropriateness of the development.

Other Considerations

14. The appellant considers that the existence of the deemed permission, as a fallback position, is a '... vitally material consideration' that I should attach great weight to. I acknowledge that the existence of a fallback position, such as a deemed permission, is a matter to which weight should be attached. However, the amount of weight to be attached to that position depends on the likelihood of it arising and whether it would be more harmful than the alternative development.
15. I have found that the appeal development would occupy more land than the barn conversion scheme and that it would thus have a greater effect upon the openness of the Green Belt. I am therefore of the opinion that the appeal development would be more harmful to the Green Belt than the barn conversion and that limited weight should be attached to the fallback position.
16. I have also found, on the basis of the available evidence, that the change from an agricultural use to a residential use, granted by the deemed

permission, has not as yet occurred. I therefore consider that the absence of the change of use further reduces the weight attributable to the fallback position, given the great weight that I have attached to the development's inappropriateness.

17. In the context of the consideration of the fallback position I should make it clear that I consider my approach in determining this appeal is consistent with the one I took in determining the Oaklands appeal³, a decision that the appellant has cited in support of his case. Oaklands was a non-Green Belt case and I found that the existence of a deemed permission for two dwellings meant that the development before me could not be considered to be unacceptable in locational terms. However, I concluded that the development requiring express permission would have had an appearance more harmful than the scheme benefitting from the deemed permission and that resulted in the Oaklands appeal being dismissed. I also consider the Garden Cottage Farm appeal case⁴ is not directly comparable with the appeal before me. That is because for that case the express permission sought was for one dwelling instead of the three subject to the deemed permission.
18. I recognise that the dwelling would be of an acceptable design and that its presence would have no adverse effect on the locally designated area of great landscape value and those factors weigh moderately in favour of the development. I find that the various parts of the Framework cited by the appellant, most particularly paragraphs 7, 47 and 55, provide no particular support for the development because it is for one dwelling and the deemed permission would similarly yield one dwelling. I consider that Wealden District Council's guidance, cited in support of the development, has no bearing on the determination of this appeal because it relates to a different Council area and I therefore attach no weight to it.

Conclusions

19. I have found that the dwelling would be inappropriate development in the Green Belt and would result in some additional loss of openness to the Green Belt when compared with the deemed permission scheme. Those shortcomings of the development amount to substantial harm that outweigh the limited benefits I have referred to above in the other considerations section of my reasoning. Accordingly there are not the very special circumstances necessary to justify inappropriate development within the Green Belt. I therefore conclude that the development would be contrary to Policies DP10 and DP13 of the Local Plan and paragraphs 87 and 89 of the Framework and could not be made acceptable by the imposition of reasonable planning conditions.
20. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR

³ APP/Z3825/W/16/3147410

⁴ APP/R3650/W/15/3133244