

Appeal Decision

Site visit made on 20 February 2017

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 10 March 2017

Appeal Ref: APP/R3650/W/16/3161183

Waverley Copse (formerly known as Keepers Cottage), Waverley Lane, Tilford, Surrey GU10 2AZ

- 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 Raw Element (Waverley) Ltd against the decision of Waverley Borough Council.
 - The application Ref WA/2016/0705, dated 26 January 2016, was refused by notice dated 12 July 2016.
 - The development proposed is erection of three detached dwellings with associated garaging and landscaping following demolition and clearance of all existing structures and buildings.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue is whether the proposed development would be inappropriate development in the Green Belt, and, if so, 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 the development.

Reasons

Green Belt

3. The appeal site is within the Green Belt, and outside any settlement boundary defined in the Development Plan, so it is, in policy terms, in the countryside. It is a large broadly L-plan plot that is mostly enclosed by woodland. An existing dwelling and outbuildings in the roughly west third of the wider roughly north section of the site are reached by a track from Waverley Lane. The rest of the site is otherwise largely undeveloped and includes open paddock land, and woodland close to the road, which are important to the rural character of the countryside.
4. The Development Plan includes the *Waverley Borough Local Plan 2002* (LP). The relevant LP policies are broadly in line with the National Planning Policy Framework (Framework). The Council's Draft Local Plan has been submitted for Examination, but as it has yet to be examined, its policies attract fairly little weight. As the site is outside the designated area of the emerging Farnham Neighbourhood Plan, its policies are not relevant.

5. LP Policy C1 says that within the areas defined as Green Belt and outside defined rural settlements there is a general presumption against inappropriate development. This will not be permitted unless very special circumstances exist. Development which would materially detract from the openness of the Green Belt will not be permitted.
6. The Framework explains that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Moreover, the Framework says that substantial weight should be given to any harm to the Green Belt.
7. The existing dwelling and outbuildings would make way for the 3 proposed dwellings, which would all be sited in the wider north section of the site. Units 1 and 2 would be broadly within the western half, to north and south respectively. Unit 3 would be sited towards the east site boundary.
8. Framework paragraph 89 explains that the construction of new buildings should be regarded as inappropriate in the Green Belt. Exceptions to this include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, and the partial or complete redevelopment of previously developed sites, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
9. The existing buildings include the fairly compact 2-storey cottage with its single storey extensions and the outbuildings. Although the outbuildings include some low-key stables and kennels with runs, many are insubstantial structures, including timber sheds, pole barns and aviaries. Most are close to the boundaries of the western third of the site, few are more than a storey tall, and some are less than a typical domestic storey.
10. The appellant says that the outbuildings demonstrate commercial uses at the site. However, a cluster of sheds including the workshop with a pit for servicing vehicles and machinery could reasonably be expected close to an isolated rural dwelling. The ephemeral construction and haphazard siting of some structures are also more characteristic of personal interests and hobbies. Moreover, little evidence was put to me to show that previous dog breeding, horse breeding and keeping, keeping of exotic species or motor vehicle repairs amounted to a business. Thus, I prefer the Council's view that the use of the roughly western third of the north section of the site is residential and that the outbuildings are ancillary to the existing dwelling.
11. Each of the proposed dwellings would be much larger than the existing dwelling. So, whilst the proposal would replace all of the existing buildings, none of the dwellings would replace one existing building with any one building in the same use that is not materially larger than the building it would replace. Even so, having had regard to the definition of previously developed land in the Framework and the judgment in *Dartford Borough Council v Secretary of State for Communities and Local Government* [2016] EWHC 635(Admin), as the site is outside any built-up area, the private residential garden of the existing dwelling would constitute previously developed land. So, there is some scope for this exception due to the presence of the existing dwelling and outbuildings within the roughly western third of the north section of the site.

12. The appellant's consultant says that the footprint area of the proposed dwellings and their garages would exceed that of the existing dwelling and outbuildings by about 6%. Also from the appellant's consultant's calculations, the volume of the proposed dwellings and garages, excluding the basement to Unit 2, would be more than 50% larger. Because the total volume of the parts of the proposed buildings that would be cut into the sloping ground would be much less than the overall increase in volume, the proposal would have a significantly greater impact on the openness of the Green Belt.
13. In his appeal decision ref APP/R3650/A/14/2223115, my colleague, amongst other things, exercised an element of judgement in finding that the proposal before him, which was for a different scheme on another site, would not have a greater impact on the openness of the Green Belt. However, the proposal before me would be a little larger than the footprint of the existing buildings, its above ground volume would be greater, the buildings and garden walls would be significantly more bulky and dominant, and their siting would be more intrusive and spread across the site than the existing buildings, which are clustered towards one end of the site where they are subservient to the much taller woodland. Thus, I consider that the proposal would have a much greater impact on the openness of the Green Belt.
14. The existing dwelling and outbuildings are largely grouped towards the west end of the wider north section of the site. By contrast, Unit 3 and the eastern parts of the plots of Units 1 and 2 would be sited within the eastern part of that wider north section, which is largely undeveloped. So, the proposal would harmfully intrude into the countryside. Because the proposal would fail to safeguard the countryside from encroachment, it would be contrary to this purpose of including land in Green Belts.
15. Due to the loss of Green Belt openness and the harm to this purpose of including land in Green Belts, the scheme would be contrary to the exception in the sixth bullet point of Framework paragraph 89. Because the proposal would not be for any of the exceptions in Framework paragraphs 89 and 90, it would be inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt.
16. Therefore, I consider that the proposal would cause great harm to the Green Belt by reason of inappropriateness. It would be contrary to LP Policy C1 and the Framework.

Area of Outstanding Natural Beauty

17. The site is also within an Area of Outstanding Natural Beauty, which has the highest status of protection in relation to landscape and scenic beauty. It is also within an Area of Great Landscape Value, and trees within much of the surrounding land and part of the site are subject to a Tree Preservation Order for woodland that is known as Waverley Common. An area of ancient replanted woodland, which is also identified by the Council as ancient woodland, is very close to or adjoins the north western corner of the site.
18. Whether or not it served that purpose, the form and siting of the existing dwelling are typical of a traditional gamekeeper's cottage that was set in a woodland clearing. The woodland trees provide a natural sylvan sense of enclosure. The well-sunlit once modest vernacular dwelling is sited on rising ground, with the scatter of ramshackle outbuildings clustered near the

woodland edge close by, and set in the spacious but secluded glade in the western part of the site. The topography, trees and the spacious clearing enclosed by them contribute positively to local distinctiveness. Due to its modest scale, traditional form, and use of mainly local materials, the existing dwelling harmonises with its landscape dominated surroundings. So, at least some of the existing development, the undulating topography around it and in the verdant paddocks, and the sylvan surroundings, make a positive contribution to the rural character of the countryside, to the landscape character of the Area of Great Landscape Value, and to the landscape and scenic beauty in the Area of Outstanding Natural Beauty.

19. The 3 different dwellings, which would share a common architectural vocabulary and alignment, would be set in a little from the edges of the site. Each dwelling would include a series of mainly grass-planted flat-roofed boxes arranged on split levels around a central vertical stair core, and parts of some of their forms would be cut into the sloping site. New hedges, trees and tall garden walls would ensure seclusion and privacy for the occupiers of each dwelling in their homes and in their immediate external spaces.
20. However, due to its substantial scale, spread out lengthy multi-layered box-like forms, built-up appearance, extensive hard-landscaped areas including the drives and patios, and enclosed and fragmented formal gardens and courtyards, the proposal would have an unacceptably dominant and harsh suburban appearance that would be harmfully out of keeping with the character of the rural area. Whilst the external materials could reasonably be controlled by condition, the formulaic design of the dwellings and their surroundings would look out of place, so the proposal would fail to respect or reinforce local distinctiveness.
21. The existing buildings are grouped at one end of the site, close to the boundaries, where they are subservient to the taller surrounding trees. By contrast, the dominant and bulky orthogonal forms of the dwellings, garages and garden walls would harmfully intrude into the mainly open undulating topography that contributes positively to the landscape character. Moreover, due to the substantial coverage of the dwellings, garages, drives and gardens, the scheme would fail to conserve or enhance the existing sense of secluded spaciousness or the primacy of the natural landscape features that contribute positively to the landscape and scenic beauty of the Area of Outstanding Natural Beauty.
22. The proposal would not be readily visible from the public domain. However, that would not be sufficient reason to allow this damaging proposal within the nationally designated landscape of the Area of Outstanding Natural Beauty, because it would be seen by the future occupiers and their visitors, and by occupiers of the neighbouring land, in any event.
23. Thus, I consider that the proposal would cause substantial harm to the rural character of the surrounding area, and that it would fail to conserve or enhance the landscape and scenic beauty of the Area of Outstanding Natural Beauty. It would be contrary to LP Policy C3 which aims to conserve and enhance the natural beauty of the Area of Outstanding Natural Beauty and the landscape character of the Area of Great Landscape Value, LP Policy D1 which aims for the design and scale of development and its relationship to its surroundings to not harm the visual character and distinctiveness of a locality, LP Policy D4

which seeks high quality design which integrates well with the site and complements its surroundings, and the Framework which aims to take account of the character of different areas, to recognise the intrinsic character and beauty of the countryside, and to protect and enhance valued landscapes.

Biodiversity interests on and near the site

24. The appellant has submitted an Extended Phase 1 Ecological Assessment (assessment 1) and a Phase 2 Bat Assessment (assessment 2), with its appeal statement, which are dated September 2016 for surveys made in May 2015 and June to July 2015 respectively. They recommend that if works have not commenced by around May 2017 and June 2017 respectively, or the proposals for the site change significantly, the assessments should be updated. That is because many of the species considered in the surveys are highly mobile and the ecology of the site is likely to change over these periods.
25. Amongst other things, assessment 1 refers to, and includes photographs of, large areas of bare earth, but most of these areas were fairly well vegetated at my visit. However, the updated desk-based data for species including badger and reptiles appears to be unsupported by a more recent survey. Moreover, both assessments refer to a proposal for 2 dwellings that would be in similar positions to Units 1 and 2, with the 'Existing field' that would include the dwelling at Unit 3, its garage, hard landscaping and private gardens, undeveloped. So, the assessments do not take into account the proposed development of the plot of Unit 3 or the effects of its future residential use.
26. Remediation of the contaminated area within the plot of Unit 3 would cause some localised temporary disruption. However, because the site specific circumstances would appear to have changed, and because the development of Unit 3 would significantly change the future use of a substantial part of the site, and the intensity of development at the site as a whole, this casts serious doubt on the findings of both assessments.
27. Thus the proposal would be contrary to Framework paragraph 165, which explains that planning decisions should be based on up-to-date information about the natural environment and other characteristics of the area. It is also contrary to ODPM Circular 06/2005 *Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system* (the Circular), which states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. As no exceptional circumstances have been put to me, this is not a matter that could be dealt with by the imposition of a planning condition. So, there is insufficient evidence to show that there is no reasonable likelihood that protected species, or their habitats, on or near the site would not be adversely affected by the proposal.
28. Therefore, I am unable to conclude that the proposal would not harm biodiversity interests on or near the site. It would be contrary to LP Policy D5 which aims to take account of nature conservation issues and to not harm protected species or their habitat, the Circular, and the Framework which aims to contribute to conserving and enhancing the natural environment. This amounts to significant harm.

Accessibility to local shops and services

29. Framework paragraph 55 explains that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. New isolated homes in the countryside should be avoided unless there are special circumstances. Here 'isolated' can be taken to mean remote from local shops and services.
30. Whilst one larger dwelling would replace the existing dwelling, and there are a few scattered dwellings in the locality, the scheme proposes 2 new dwellings. The appellant's consultant refers to the 3 exceptionally high quality designed dwellings, but there was little to show that any of the dwellings or the proposal would be for any of the suggested special circumstances in Framework paragraph 55.
31. Because the nearby rights of way do not offer access to larger settlements with shops and services, and as the lack of footpaths and street lights along the nearby parts of Waverley Lane and other roads would make their use an unattractive prospect for walking or cycling after dark or in inclement weather, the likelihood is that the occupiers of the dwellings would be reliant on the private motor vehicle to meet their day to day needs. Whilst the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas, the special circumstances necessary to justify 2 new dwellings in this isolated rural location have not been demonstrated.
32. Furthermore, the appellant's highway and transport consultant's assessment takes into account livery stables, kennels and dog breeding, and car repair/servicing business uses at the site, as well as the existing dwelling. As there is insufficient evidence before me to show that those activities operated at the suggested levels and at the same time, this casts doubt on its findings that the proposed 3 dwellings would generate less vehicle movements.
33. I therefore consider that the future occupiers of the proposal would not have reasonable access to local shops and services by means other than the private motor vehicle. It would be contrary to the LP Keynote Policy which aims to maintain and improve the quality of life without compromising the ability of future generations to meet their own needs, and the Framework which seeks to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. This amounts to moderate harm.

Other considerations

34. Turning to the other considerations that were raised by the appellant, the appellant has explained why it considers that the Council cannot demonstrate a 5 year supply of land for housing, the Council says otherwise, and I have taken both parties' evidence into account. However, because the proposal would be contrary to specific policies in the Framework that indicate development should be restricted, namely those regarding the Green Belt and the Area of Outstanding Natural Beauty (footnote 9 to Framework paragraph 14), the proposal would not be in accordance with the presumption in favour of sustainable development. So, little weight can be afforded to the benefit of the 2 new dwellings and the related New Homes Bonus that they would attract. As Unit 3 could not be developed until the remediation of the contaminated area has been carried out, the benefit of remediation attracts minimal weight.

Green Belt balance

35. The great harm to the Green Belt due to inappropriateness, substantial harm to the Area of Outstanding Natural Beauty, significant harm due to the failure to suitably assess biodiversity interests, and moderate harm due to the poor accessibility to local shops and services together add up to considerable harm. The sum of the little weight in respect of 2 new dwellings and the related New Homes Bonus, and minimal weight for the remediation of the contaminated area would be insufficient to outweigh the considerable harm that the proposal would cause. Therefore, the very special circumstances necessary to justify the proposal do not exist. The proposal would be contrary to LP Policies C1, C3, D1, D4 and the LP Keynote Policy, and the Framework.

Conclusion

36. For the reasons given above and having regard to all other matters raised, the appeal fails.

Joanna Reid

INSPECTOR