

Appeal Decision

Site visit made on 31 January 2017

by J Dowling BA(Hons) MPhil MRTPI

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

Decision date: 29th March 2017

Appeal Ref: APP/M2270/W/16/3162322

Honnington Farmhouse, Vauxhall Lane, Southborough, Royal Tunbridge Wells TN4 0XD

- 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 Mrs Ann Tyler against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/500896/FULL, dated 29 January 2016, was refused by notice dated 20 May 2016.
 - The development proposed is a holiday cottage located on the site of a tennis court within residential amenity garden.
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Decision

1. This appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect of the proposal on the landscape character and visual amenity of the High Weald Area of Outstanding Natural Beauty (the AONB);
 - suitability of the location in relation to access to services; and
 - whether any 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 required to justify the proposal.

Reasons

Policy Background

3. The development plan for the area consists of the saved policies of the Tunbridge Wells Borough Local Plan (2006) (the Local Plan) and the Tunbridge Wells Borough Core Strategy Development Plan Document (2010) (the Core Strategy).
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4. The Framework was issued after the adoption of the Local Plan and the Core Strategy. However, paragraph 215 of the Framework states that the closer the policies in a plan are to the policies in the Framework, the greater the weight they may be given.
5. The policies relevant to the determination of this appeal are saved policies MGB1, LBD1, EN1 and EN25 of the Local Plan and Core Policies 1, 2, 4 and 14 of the Core Strategy.
6. Policy MGB1 specifies that the openness of the Green Belt will be preserved and no development which would conflict with the purposes of including land within it will be permitted. It then provides a list of exceptions. This reflects the Framework which states that the fundamental aim of the Green Belt is to keep land permanently open¹ and provides a similar list of exceptions². However, I acknowledge that it does make references to other Local Plan policies which have subsequently been deleted and a number of exceptions that are not listed in the Framework. As such I consider that the parts of this policy that are consistent with the Framework are parts relevant to my consideration of this appeal.
7. I note that the appellant considers that as the appeal site was not within the Green Belt when the Local Plan was adopted policy MGB1 should not be applied. However, as policy MGB1 does not set the Green Belt boundary but deals with the effect of development on the openness of the Green Belt I consider that it is relevant to the consideration of this appeal.
8. Policy LBD1 requires that all development outside the Limits of Built Development (LBD) need to comply with the relevant policies contained within the Local Plan and the two regional structure plans. As both the structure plans have now been revoked I can only afford this policy limited weight insofar as it relates to the saved policies of the Local Plan.
9. Policies EN1 and EN25 provide amongst other things criteria for assessing the effect of development on the character of an area and as such are compliant with the policy contained within the Framework and therefore I have afforded these policies full weight.
10. Core Policies 1, 2, 4 and 14 of the Core Strategy whilst broader in context reflect and update many of the saved local plan policies including reiterating the presumption against inappropriate development that would not preserve the openness of the Green Belt (Core Policy 2); seeking to restrict development to within the LBD (Core Policies 1 and 14). In addition Core Policy 4 seeks to conserve and enhance the AONB. I recognise that some of these policies are predicated on the need to deliver levels of housing that are now out of date and also seek to restrict development within the countryside in order to protect it for 'its own sake' rather than the Frameworks requirement to recognise the countryside's 'intrinsic character and beauty'³. However, a sequential approach to focusing new housing within existing developed areas, which is the aim of these policies, is consistent with the aims of sustainable development which the Framework promotes. As a result whilst these policies carry some weight, I recognise that their weight is limited.

¹ Paragraph 79 of the National Planning Policy Framework (2012)

² Paragraph 89 of the National Planning Policy Framework (2012)

³ Paragraph 17 of the National Planning Policy Framework (2012)

Is the proposal inappropriate development in the Green Belt and would it effect the openness of the Green Belt?

11. Paragraph 89 of the Framework states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt but then details six exceptions to this. A similar list is contained within saved policy MGB1 of the Local Plan. The sixth exception in this list advocates that:

“limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), 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.”
12. The proposal is for the erection of a residential unit which would be constructed on the site of an existing tennis court located within the curtilage of the farmhouse. The appellant considers that by reusing the site of the tennis court the proposal would reuse previously developed land and the proposal would fall within the sixth exception of paragraph 89.
13. The Framework⁴ defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. As a consequence I agree with the appellant that the site is capable of being considered as previously developed land.
14. However, the exception also requires that any development of previously developed land should not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
15. The proposal would result in the replacement of the tennis court with a one and a half storey holiday cottage. The existing large evergreen hedge that encloses the site on two sides would be retained. The appellant considers that this hedge would screen the proposal and consequently it would not affect the openness of the Green Belt. Whilst I recognise that the hedge affords some screening of the site and there are limited views of the site from the surrounding countryside, openness in the context of the Green Belt means freedom from development. The proposal would result in the introduction of built form into what is currently a relatively open area.
16. Paragraph 79 of the Framework indicates that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. I acknowledge that Honnington Farm and Farmhouse constitutes an established complex of buildings. However, whilst within the curtilage of the Farmhouse, the site is located on the edge of the complex adjacent to open countryside and would have the effect of spreading the farm buildings further east thereby eroding the overall openness of the Green Belt.
17. As a consequence I consider that the proposal would not fall within the exceptions set out in paragraph 89.
18. Paragraph 90 of the Framework provides a list of five other forms of development that are also considered not inappropriate. I have assessed the

⁴ Annex 2 of the National Planning Policy Framework (2012)

proposal against this list and consider that it would not fall within any of these categories.

19. I therefore conclude that the proposal would not fall within the exceptions of development in the Green Belt contrary to the Framework and saved Local Plan Policy MGB1. Furthermore, this would be contrary to Core Policy 2 of (the Core Strategy) which states that there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt and as a result I consider that the proposal would be inappropriate development.
20. As inappropriate development is, by definition, harmful to the Green Belt in accordance with paragraph 88 of the Framework I must give this substantial weight when reaching my conclusions.

Other Considerations

The effect of the proposal on the landscape character and visual amenity of the High Weald AONB

21. The site falls within the High Weald AONB. Core Policies 4 and 14 of the Core Strategy seek to conserve and enhance the AONB and to restrict development to within the LBD in order to maintain the landscape character and quality of the countryside.
22. Whilst I acknowledge that there are limited public views of the site; that it is partially screened by the existing evergreen hedge and that the holiday cottage would be viewed against the back drop of the existing farmhouse and buildings as I have already outlined due to its location on the edge of the farm complex it would erode the rural quality of the site by introducing a domestic building and the external paraphernalia associated with a residential use which would detract from the character of the area and would therefore neither conserve or enhance the character and visual amenity of the AONB.
23. As a result the proposal would be contrary to policies EN1 and EN25 of the Local Plan and Core Policies 1, 4 and 14 of the Core Strategy which amongst other things seek to maintain local distinctiveness and conserve and enhance the AONB. The purpose of these policies is consistent with the Framework which advocates that great weight should be given to conserving the landscape and scenic beauty of AONBs.

Suitability of location in relation to access to services

24. Although there are public transport facilities and local town centres within the area given the location of the site, the distance to these facilities and the proposed use as holiday accommodation I consider that it is highly likely that the majority of future users would be most likely to access the site by car. Furthermore, I agree with the Council that given the type of accommodation users would also potentially wish to explore the wider area. However, I also recognise that this type of accommodation by its very nature tends to be located where there is limited access to services and that the Framework⁵ seeks to enhance the beneficial use of the Green Belt such as looking for opportunities to provide access and recreation. Furthermore, it would be

⁵ Paragraph 81 of the National Planning Policy Framework (2012)

located adjacent to Honnington Farm where there are a number of established leisure uses.

25. As a result whilst I agree that the sites location could be classed as unsustainable I consider that on balance the benefits that the scheme would provide in supporting the rural economy and providing access to the countryside would outweigh the harm resulting from the accessibility of its location.

Other matters

26. A Grade II listed barn is located within the appeal site. However, as the site is some distance from the listed building and there is a substantial screen of mature trees between the barn and the tennis court I agree with the Council that the proposal would not harm the setting of this designated heritage asset.

Would any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal

27. I note that the scheme is well supported locally as it is considered that it would, amongst other things, benefit the local economy; enable diversification of the farm; would not overlook anyone and would not create highways problems. However, whilst this may be the case I do not consider that this overcomes the concerns that I have outlined earlier.
28. The appellant has made reference to a number of other holiday cottages in similar locations. However, no details have been provided regarding the planning histories for these properties and therefore I do not know where these cottages are located or why they were considered acceptable. As a result I have given them no weight in coming to my conclusions.
29. In conclusion the scheme would be inappropriate development in the Green Belt as defined by the Framework. For the reasons I have already given I consider that the proposal would erode the openness of the Green Belt. Whilst the proposal may make a limited contribution to boosting the rural economy it would result in harm to the Green Belt. Consequently, I conclude that on balance and on the basis of the evidence before me the benefits that the scheme would provide do not outweigh the totality of harm to the Green Belt.
30. As a result I do not find that the other considerations in this case clearly outweigh the harm I have identified. Looking at the case as a whole, I consider that the very special circumstances required to justify the development do not exist. Consequently the proposal would be contrary to saved local plan policy MGB1, Core Policy 2 of the Core Strategy and the requirements of the Framework.

Conclusion

31. I conclude that the proposal would be inappropriate development in the Green Belt as defined by the Framework. The proposal would extend the built area and erode the openness of the Green Belt. As outlined above I give only limited weight to each material consideration cited in support of the proposal and conclude that, they do not outweigh the harm that the scheme would cause. Consequently, I conclude that the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

32. Furthermore the proposal would neither conserve or enhance the character and visual amenity of the AONB and as a result for the reasons above, and having regard to all other matters raised, I conclude that the scheme is not sustainable development for which the framework indicates that there should be a presumption in favour and that, therefore the appeal should be dismissed.

Jo Dowling

INSPECTOR