
Appeal Decisions

Site visit made on 9 May 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 7th June 2017

Appeal A: APP/G5180/W/16/3165915

Land adjacent Iona, Skeet Hill Lane, Orpington BR6 7RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hatch Homes Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/02054/OUT, dated 27 April 2016, was refused by notice dated 12 August 2016.
 - The development proposed is erection of 2 detached chalet style dwellings.
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Appeal B: APP/G5180/W/16/3165917

Land adjacent Iona, Skeet Hill Lane, Orpington BR6 7RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hatch Homes Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/04503/OUT, dated 6 October 2016, was refused by notice dated 1 December 2016.
 - The development proposed is erection of a detached dwelling.
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Decisions

Appeal A: APP/G5180/W/16/3165915

1. The appeal is dismissed.

Appeal B: APP/G5180/W/16/3165917

2. The appeal is dismissed.

Procedural Matters

3. As set out above there are two appeals on this site. The main differences between the two appeals relate to the effects on the living conditions of future occupiers and highway safety. Whilst I have considered each proposal on its own merits, in order to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
 4. The appeals relate to outline schemes with access and layout to be determined at this stage in Appeal A and access only in Appeal B. I have determined the appeals on this basis and I have treated the submitted elevation, floor and site layout plans as indicative, where necessary.
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Main Issues

5. In both appeals the Council objects on the grounds of the proposal being inappropriate development within the Green Belt, that it would harm the openness and character of the area and there are no very special circumstances to justify it. In Appeal A only the Council also object to the proposal on the grounds that the access would be harmful to highway safety and the proposal would harm the living conditions of future occupiers. Accordingly, the main issues are:

For Appeals A and B:

- Whether the proposal would be inappropriate development within the Green Belt.
- The effect of the proposal on the character and appearance of the area.
- If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so would this amount to the very special circumstances necessary to justify the proposal.

For Appeal A only:

- The effect of the proposal on highway safety.
- The effect of the proposal on the living conditions of future occupiers, with particular regard to noise and disturbance.

Reasons

Green Belt

6. I have been referred to the Court of Appeal judgement in *Julian Wood v SSCLG and Gravesham Borough Council* [2014] EWHC 683 (Admin) and the appellant contends that the site is physically 'part of the village'¹, constitutes limited infilling² and is also on Previously Developed Land ('PDL').
7. The National Planning Policy Framework ('the Framework') states at paragraph 89 that new buildings in the Green Belt should be viewed as inappropriate and then specifies exceptions, which includes 'limited infilling in villages', and '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'.
8. The appeal site is on a narrow rural lane to the east of Chelsfield Lane which forms a strong physical boundary that separates Orpington from surrounding countryside. In my view, it is set amongst sporadic development within a rural setting that is clearly beyond the established built up area of the town. In any reasonable assessment it could not be said to be part of a village. Furthermore, the site may lie adjacent to Iona, a residential property, but it is separated from 2 residential dwellings further along Chelsfield Lane by a similar width

¹ Paragraph 2.1 of Appellant's Statement.

² Paragraph 6.2 of Appellant's Statement.

site, the frontage of which is grassed with a single width vehicular access along the side boundary with the appeal site. This provides access to commercial units at the rear which are sited a considerable distance back from both Chelsfield and Skeet Hill Lane. To my mind, given the particular circumstances obtaining on the ground the proposal would not therefore fill a gap between buildings in an otherwise built up frontage, a commonly understood and widely held meaning of the term infill.

9. There is some dispute between the parties regarding whether the development would be the partial or complete redevelopment of PDL although on the evidence before me I am unable to reach a definitive conclusion. Nonetheless, openness has both spatial and visual aspects and the appeal site is free from development. Because the properties on this side of the lane are set back from it the absence of development is clearly evident in the gap between Iona and the appeal site and from further along the lane. The introduction of development in the form of 2 or even 1 dwelling of the likely volume, height and massing would result in harm to openness, both in spatial and visual terms.
10. There is a marked contrast between the housing development to the west of Chelsfield Lane and the wooded and undulating countryside beyond to which the appeal site belongs. Further development in this location would result in the further outward sprawl beyond the established built up area of Orpington. This would not assist in safeguarding the countryside from encroachment, one of the 5 purposes of including land within the Green Belt.
11. For these reasons, even if I were to conclude that the site was PDL the proposal would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
12. Taking everything together, the proposal does not constitute an exception as specified within Policy G1 of the Bromley Unitary Development Plan 2006 ('UDP') or paragraph 89 of the Framework. The proposal would be inappropriate development in the Green Belt for the purposes of local and national planning policy which is, by definition harmful. In accordance with paragraph 88 of the Framework, I attach substantial weight to this harm.

Character and appearance

13. The appeal site forms part of an area of open grassland bound by Skeet Hill Lane and a public right of way³. Although a small number of residential properties and some commercial uses are located nearby the appeal site has a rural setting with sporadic development. There are open fields to the rear and mature landscaping along its boundaries that contributes positively to this and I found that it has a stronger affinity to the open countryside rather than neighbouring commercial uses and the built up area of Orpington, which lies beyond Chelsfield Lane.
14. In both appeals, the introduction of built form would be clearly conspicuous on the approach from the junction with Chelsfield Lane, given the land sits at an elevated level above the road. Although in outline form the introduction of 2 or even 1 dwelling, associated hardstandings and driveways would also result in the suburbanisation of the appeal site. This would be harmful to the character

³ FP 199.

and appearance of this part of the Green Belt and would conflict with Policies BE1, BE3 and G1 of the UDP which, amongst other things require development to be of a high standard of design, complements the area in terms of form and layout and has no adverse effect on the open character and appearance of the countryside. I attach moderate weight to this harm.

Highway safety

15. Following further work undertaken by the appellant the Council has confirmed in its statement of case that it no longer wishes to pursue the highway safety reason for refusal. I also note that the relevant Highway Authority did not raise any objections in such terms for the application subject of Appeal B. On the evidence before me and having visited the site, I am satisfied that subject to conditions the appropriate sightlines and visibility of the access could be achieved. The proposal would not therefore cause harm to highway safety and would not conflict with Policy T11 of the UDP.

Living conditions

16. The dwellings would be sited in tandem form with the access running to the side of the dwelling closest to the site frontage and along the boundary. I do not share the Council's view that the likely number of vehicle movements associated with a single dwelling would be harmful in terms of general noise and disturbance. Furthermore, any effects could be mitigated by additional boundary landscaping or fencing, if I were minded to allow the appeal.
17. For these reasons, the proposal would not harm the living conditions of future occupiers in terms of noise and general disturbance. In this regard it would not conflict with Policies H7 or BE1 of the UDP or Policies 3.5, 7.4 and 7.6 of the London Plan 2016 insofar as these require development to respect the amenities of occupiers of neighbouring buildings and those of future occupants.

Other considerations

18. There would be some economic benefits associated with the proposals, including economic benefits during construction and the support future occupiers would give to local businesses and services. Furthermore, in social terms and regardless of the housing land supply position a single or 2 dwellings would provide additional housing. To my mind, given the nature of the proposal such benefits would be small and I attach minimal weight to them. I give no weight, in this particular case, to mere compliance with the normal development management highway safety and amenity objectives of the development plan and the Framework given its Green Belt location.

Other Matters

19. I have been referred to two appeal decisions by the appellant from different local planning authorities⁴. In both appeals the Inspector concluded that the site was part of a clearly identifiable frontage, with development on either side and therefore it was a built up frontage. Based on my observations on the ground I have reached a different conclusion in this regard and therefore the decisions are not directly comparable to the proposal before me and do little to alter my view in relation to the main issues. In any event, each case must be determined on its own merits.

⁴ APP/D2320/W/16/3154595 and APP/R0660/W/14/3001214.

Planning balance and conclusion

20. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. The other considerations put forward do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness, harm to openness, one of the 5 purposes of including land within the Green Belt and moderate weight to the harm to the character and appearance of the area. Consequently, the very special circumstances necessary to justify the development do not exist.
22. In both appeals, there is some dispute regarding whether the Council can demonstrate a 5 year supply of housing land but on the evidence before me I am unable to be conclusive. I am also mindful of the Planning Practice Guidance which states that, *'Unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt'* (ref ID 3-034-2014006).
23. In any event, even if I were to conclude that the Council cannot demonstrate a 5 year supply of housing land and that relevant policies for the supply of housing should not be considered up-to-date, paragraph 14 of the Framework indicates that in such cases permission should be granted, unless there are specific policies in the Framework (such as land designated as Green Belt), which indicate that development should be restricted. Given that there are no very special circumstances, local and national Green Belt policy provides that to be the case here. As such the proposal would not therefore represent sustainable development.
24. For the reasons set out above, although there would be compliance with some parts of the development plan, the proposals in both Appeal A and Appeal B would conflict with the development plan, when taken as a whole and the Framework. Having considered all other matters raised, I therefore conclude that both Appeals A and B should be dismissed.

Richard Aston

INSPECTOR