
Appeal Decision

Site visit made on 2 May 2017

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 13 June 2017

Appeal Ref: APP/Y3615/W/16/3164570

Land at Chalk Pit Lane, Shere Road, Surrey, West Horsley KT24 6EJ

- 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 G. Day against the decision of Guildford Borough Council.
 - The application Ref 16/P/01802, dated 5 September 2016, was refused by notice dated 16 November 2016.
 - The development proposed is erection of two dwellings with associated access, garaging and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. Since issuing its decision, the Council have confirmed that they no longer wish to pursue their second reason for refusal, which related to flood risk. In light of this, the main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework and relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, such as to amount to the very special circumstances required to justify the proposal.

Reasons

3. It is undisputed that the Council is unable to demonstrate a five-year supply of deliverable housing land. In such instances, paragraph 49 of the Framework, which is a significant material consideration, indicates that relevant policies for the supply of housing should not be considered up-to-date. The primary purpose of paragraph 49 is to trigger the operation of the tilted balance in paragraph 14 where a Local Authority cannot demonstrate a five-year supply of delivering housing sites¹. It does not, however, lead to an automatic assumption that planning permission should be granted, rather to ensure that the presumption in favour of sustainable development at paragraph 14 is duly

¹ Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council [2017] UKSC 37

applied. Under paragraph 14, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, assessed against the policies in the Framework taken as a whole, or when specific policies indicate that development should be restricted. Footnote 9 of the Framework establishes that 'specific policies' include those in relation to the Green Belt. It stands therefore, that the development proposal should be assessed against the relevant Green Belt policies in the Framework and the related development plan policies.

Whether inappropriate development

4. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate development in the Green Belt unless in compliance with a number of exceptions set out in paragraph 89 of the Framework. The most pertinent of these, in relation to the appeal proposal, is that of 'limited infilling in villages'.
5. Saved Policy RE2 of the Guildford Borough Local Plan, adopted 2003 relates to development within the Green Belt and is, in essence, consistent with the Framework in that it deems new building in the Green Belt to be inappropriate unless it is for, amongst other things, infilling in villages. However, the degree of consistency lessens with reference Saved Policy RE3, which, unlike the Framework, defines specific settlements and their boundaries as qualifying for infilling on land substantially surrounded by existing development. This difference notwithstanding, Saved Policy RE2 is still broadly reflective of the Framework's exception criteria and so it still attracts moderate weight.
6. The appellant argues that the proposed development would not be inappropriate by virtue of the fact that the site qualifies as being within the village of West Horsley, and would also represent limited infilling. The Framework, however, does not define 'villages' or 'limited infilling'. The fact that the appeal site falls outside the settlement boundary, as drawn in the development plan, is therefore not determinative of whether it may still be within a village².
7. The busy A246 (Epsom Road) separates Shere Road from The Street, which runs northwards through West Horsley. On turning northwards from the A246 roundabout, there is a continuous footway that passes various facilities and services fronting The Street, including a shop, public houses, village hall, bus stops, phone and post boxes. Moreover, north of the A246, and in the routes off the Street, there is a notable density of built form and unbroken domestic curtilage that contrasts with the surrounding open, rural context. From my own observations and experience, the village of West Horsley is defined by The Street as the main artery linking village services with a continuous footway, and the secondary routes of concentrated dwellings and garden curtilages that directly connect with it.
8. The appeal site is situated just off Shere Road, which extends south-eastwards, away from West Horsley and the A246. The A246 provides a definite visual and physical break from the features that define West Horsley Village. Walking

² Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

from the A246 towards the appeal site, there is no footway, street lighting or other features or services that would readily associate the environs with being in a village. While broadly situated within a mix of residential dwellings in the immediate context, the surrounding fields provide an unequivocal pause in the consistency of built form. Coupled with mature hedgerows and extensive to open countryside, Shere Road is experienced as being within a semi-rural setting. The appeal site is therefore situated in an area of transition to outlying open countryside beyond West Horsley, rather than being in the village itself. As a matter of fact on the ground, while the appeal site is relatively close to the village of West Horsley and the various facilities therein, it is not in a village.

9. Given the site's specific context, it does not form part of a village and so cannot fall under the Framework's definition of limited infilling in a village. Coming to this conclusion, it is not necessary to further establish whether the proposal would also qualify as 'limited infilling'. However, I have had regard to the various appeal decisions³ referred to by the appellant as being of relevance to the proposal. It is evident that in each of these decisions, outside the definition within Policy RE3, the Inspectors were consistent in their definition of 'infilling' as being a gap within an otherwise largely built up, clearly identifiable, or continuously developed frontage. The appeal site, however, is situated to the rear of the gardens of dwellings that clearly front Shere Road and Jefferies Road. The proposed two houses would therefore not infill a gap, nor read as part of the frontage, along either of these routes. Numbers 1 and 2 Chalk Pit Lane are the only buildings that directly address Chalk Pit Lane on the same side as the appeal site. The absence of development either side of Numbers 1 and 2 Chalk Pit Lane does not constitute space between existing structures, rather these two dwellings are the exception in an otherwise open and undeveloped context.
10. Moreover, in terms of village location, the Inspector who decided the appeal at Moor Lane established there was a clear continuum of development spread out from the settlement. At Brickfield Street, the Inspector found that the development would be part of the village rather than the surrounding countryside. Where the Planning Committee granted permission for a detached dwelling at 103 Glazier Lane, the site was considered to be part of the village of Normandy, taking into consideration the site was located on one of the main roads that ran through it, directly opposite a site where 1100 houses were proposed. The accompanying plan also shows a clear gap in development within what is otherwise a continual residential road frontage. In each of the decisions and the permission referred to, therefore, I find the site-specific circumstances to be materially different, to the extent that a direct comparison with the proposal before me would not be appropriate.
11. For the above reasons, the appeal scheme would not represent limited infilling in a village; as such it would not meet any of the exceptions established in paragraphs 89 or 90 of the Framework. On the first main issue, therefore, I find that the proposed development would be inappropriate development in the Green Belt.

³ APP/A0665/A/14/2217226; APP/R0660/W/14/3001214; APP/H1033/W/15/3131988; APP/D2320/W/16/3154595

Effect on openness

12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open⁴. It is clear that there were once structures on the site, purported to be a greenhouse and a shed, although much of it remained undeveloped. With the exception of some low brick remnant walls, the site is devoid of development and has the appearance of an, albeit scrubby and untidy, open field. It follows, that the development of two houses and their associated garaging, access driveway and areas of hardstanding would alter the portion of, vegetated open land. In addition, there would be associated activity such as the movement and parking of vehicles.
13. In the above respects, I conclude that the proposed development would not preserve Green Belt openness and would impact on the purpose of safeguarding the countryside from encroachment. While the effects would be moderate, the development would still be contrary to the fundamental aim of Green Belt policy: to keep land permanently open.

Other considerations

14. It is not disputed that there is a need for additional housing in the borough. However, paragraph 034 of the Planning Practice Guidance⁵ advises 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. It is also accepted that the appeal site is in reasonable proximity to West Horsley and so the village facilities and services, including public transport, could be accessed on foot.
15. I note an interested party supports the use of what is currently a redundant patch of land. While not an argument pursued by the appellant, there is evidence that there were structures on the land a few years ago. However, there is nothing before me to indicate that the site is not viable for other uses, nor that the appeal proposal would be the only means available to address an unkempt site that would not reduce the openness of the Green Belt. The fact that frontage development on the paddocks to the north of the appeal site, on Shere Road, could be more harmful than the appeal proposal does not, in itself provide justification for the harm I have identified.
16. The appellant refers to the design of the proposed dwelling, which would have two bedrooms downstairs, as providing flexibility of layout suitable for older residents. While the Housing Needs Survey undertaken by the Parish Council may identify a need for bungalow accommodation, there is nothing to indicate that the two dwellings would be secured as such. There is also nothing to indicate whether the Survey has informed any policies within the emerging Neighbourhood Plan, or that the Neighbourhood Plan itself has progressed to the point that it should form part of a decision-making process.
17. I have taken into account matters raised to do with the size and design of the proposed dwellings, ditches and drainage, trees, biodiversity and highway safety. Bearing in mind the various internal consultation responses in relation to sewerage infrastructure, highways, flood risk and arboriculture, I am satisfied that these matters could be dealt with via condition.

⁴ The Framework, paragraph 79

⁵ Reference ID 3-034-20141006

Conclusions

18. Paragraph 87 of the Framework makes clear that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. The appeal proposal would be inappropriate development in the Green Belt and, thus, harmful to it. Although the effects on openness and the Green Belt purpose of safeguarding the countryside from encroachment would be moderate, substantial weight should still be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
19. I give moderate weight to the contribution of two houses, where the Council are not currently able to demonstrate a 5-year supply of housing land. I also give moderate weight to the appeal site's proximity to local services. I give limited weight to the flexibility of the layout to potentially meet a local need for bungalow accommodation, which, as yet, has no policy basis. I give limited weight to the previous structures that existed on the land, and that the proposal would tidy the land. The lack of harm in relation to flood risk, trees, highway safety, biodiversity and design are all neutral considerations.
20. The substantial weight to be given to Green Belt harm, therefore, is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. It follows, therefore, that the very special circumstances that would be necessary to justify inappropriate development in the Green Belt do not exist.
21. In conclusion, I find that the appeal scheme would fail to accord with the development plan and the Framework when read as a whole and would not be sustainable development. For the reasons given above, appeal should be dismissed.

H Porter

INSPECTOR