
Appeal Decision

Site visit made on 27 June 2017

by Alex Hutson MATP CMLI MArborA

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

Decision date: 25 July 2017

Appeal Ref: APP/L3625/W/17/3171240

Clocktower Bungalow, Brighton Road, Lower Kingswood, Surrey KT20 6QZ

- 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 Andries Stricker – Zestan Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/01779/F, dated 29 July 2016, was refused by notice dated 16 January 2017.
 - The development proposed is demolition of existing bungalow and outbuildings and erection of a block of 3 two-storey dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing bungalow and outbuildings and erection of a block of 3 two-storey dwellings at Clocktower Bungalow, Brighton Road, Lower Kingswood, Surrey KT20 6QZ in accordance with the terms of the application, Ref 16/01779/F, dated 29 July 2016, subject to the attached schedule of conditions.

Main issues

2. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the proposal is inappropriate development, whether or not there are other considerations which, together, clearly outweigh the harm to the Green Belt, and any other harm, and which amount to very special circumstances which would be necessary to justify the proposal.

Reasons

Inappropriate development

3. The appeal site comprises Clocktower Bungalow, a single storey building set within grounds of a substantial size. From my understanding of the evidence, the Council accepts that this building has a residential use. The appeal site also contains a number of outbuildings, used for the storage of materials and gardening equipment. However, it is unclear whether these are ancillary to the residential use of Clocktower Bungalow or whether they are for the purposes of separate commercial activity. Also present within the appeal site, are the

foundations for a consented¹ detached two storey dwelling. This consent was subject to the removal of the existing dwelling and all outbuildings.

4. The appeal site is located within the Green Belt as defined within the Reigate and Banstead Borough Local Plan 2005 (Local Plan). Paragraph 89 of the National Planning Policy Framework (the Framework) sets out that the construction of new buildings within the Green Belt should be regarded as inappropriate. However, it also sets out that there are exceptions to this. Two of these exceptions which are referred to within the evidence include: firstly, the limited infilling or the partial or complete redevelopment of previously developed land, 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; and secondly, replacement buildings, provided the new building is in the same use and is not materially larger than the one it replaces. I have therefore considered the appeal having regard to them.
5. The proposal would demolish the existing dwelling and outbuildings and would erect a building onto the western part of the appeal site comprising 3 two storey dwellings with associated rear gardens and parking spaces. In addition, the eastern part of the appeal site would be landscaped to provide communal garden space for the residents of Clocktower Mews, a recent development which involved the conversion of some stable buildings to the immediate north. The proposed building would be sited in broadly the same position as the consented two storey dwelling.
6. The Glossary at Annex 2 of the Framework defines previously developed land (PDL) as land which is or was occupied by a permanent structure, including the curtilage of the developed land. The evidence indicates that the buildings within the appeal site have been present for longer than four years and are therefore lawful by way of time. I have no compelling reasons to doubt this. Thus, they could reasonably be considered as permanent structures and the appeal site therefore falls within the Framework's definition of PDL.
7. The proposed building would be of a greater height than the existing buildings on the appeal site. However, according to the evidence, it would have a smaller footprint than and a similar volume to all of the existing buildings combined. In addition, it would consolidate built form into one part of the appeal site rather than the current situation where it is more dispersed. On this basis, I consider that the proposed building would have no greater impact on the openness of the Green Belt than the existing situation.
8. Furthermore, the presence of any associated parked vehicles would be transient in nature and would not materially affect the openness of the Green Belt. They would also be largely screened from public view by new hedge planting. Whilst three dwellings would be likely to intensify domestic activity in the area and would be likely to increase the comings and goings associated with any future occupiers, this would be in the context of existing surrounding residential uses and the nearby busy main road. As such, this would also have no material impact on the openness of the Green Belt. Moreover, having regard to the existing use of the appeal site and its PDL status, the proposed changes to it would not conflict with the purposes of including land within the Green Belt.

¹ Council Ref 14/00946/F dated 15 July 2014

9. Consequently, the proposal would comply with the listed exceptions as set out in Paragraph 89 of the Framework, in respect of the redevelopment of PDL. It would therefore not be inappropriate development within the Green Belt. On this basis, there is no need for me to consider the second exception as set out above.
10. The Council cites conflict with Policy Co 1 of the Local Plan 2005. This policy allows the infilling or redevelopment of major existing developed sites in the Green Belt, as identified on the Local Plan Proposals Map. It also refers to replacement dwellings in the Green Belt, as does Policy Ho 24 of the Local Plan, which the Council also cites conflict with. However, the requirements of these policies are more restrictive than those of the Framework, which relate to the redevelopment of PDL more generally and to replacement buildings. Therefore, whilst the proposal might conflict with Policies Co 1 and Co 24, having regard to Paragraph 215 of the Framework, I afford these policies limited weight.

Openness

11. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. As set out above, I have found the development not to be inappropriate development in the Green Belt, including in respect of its effect on openness. Thus, it would not conflict with Paragraph 79 of the Framework.

Other matters

12. I acknowledge that the proposed building would be greater in overall size and volume than the consented dwelling, by virtue of an additional central rear gable and a small front dormer window. However, the increase in these respects would be modest. In any event, I have considered the proposal on its own merits, which as can be seen from my reasoning above, I consider not to be inappropriate development within the Green Belt.
13. The appeal site adjoins Horseshoe Cottage, a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting. The Council considers the proposal would be acceptable in this regard. On the basis that the proposed building would be traditional in appearance, would be set away from Horseshoe Cottage and would remove a number of unsightly buildings within the appeal site and would tidy it up in general, I also consider that the proposal would preserve the setting of the listed building.
14. I have had regard to the concerns of an interested party, including in respect of the utility of the communal garden area for the residents of Clocktower Mews. However, the provision of a communal garden has already been established under the previous consent. In addition, under this proposal the communal garden would be greater in area than that provided under the consented scheme and it would be served with an entrance at either end to allow greater permeability through it. Moreover, the Framework promotes opportunities to provide access to the Green Belt. Furthermore, there is no substantive evidence before me to demonstrate that the communal garden would not be utilised by the residents of Clocktower Mews. As such, the provision of the communal garden does not weigh against the proposal.

Conditions

15. I have had regard to the planning conditions suggested by the Council. I have amended some of these for clarity, conciseness, to avoid repetition and to reflect that this is a standalone planning permission. In addition to the statutory time limit condition, a condition specifying the relevant plans is necessary as this provides certainty. A condition relating to materials is necessary in the interests of character and appearance and the setting of Horseshoe Cottage. A condition relating to the demolition of buildings is necessary in the interests of the openness of the Green Belt. A condition relating to landscaping and tree protection is necessary in the interests of character and appearance. A condition relating to ground contamination is necessary in the interests of health and safety and the environment. I also agree that a condition relating to parking is necessary in the interests of highway safety.
16. However, I have not been provided with any exceptional circumstances to justify the removal of the permitted development rights as suggested by the Council.

Conclusion

17. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have identified that the development would not be inappropriate development in the Green Belt and consequently no very special circumstances are necessary to justify a planning permission. Therefore, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed.

Alex Hutson

INSPECTOR

SCHEDULE OF CONDITONS:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1705_01 Rev B; 1705_02; 1705_05; 1705_10; 1705_11; 1705_12; 1705_15; J001604/PL 02, and J001604/PL 07.
- 3) Notwithstanding the information shown on the approved plans, the development hereby permitted shall be carried out in accordance with the following external facing materials and details:
 - a. The roof shall be constructed from handmade sandfaced plain clay tiles with bonnet tiles to hips;
 - b. All casements shall be of white painted timber with casements in each opening and glazing bars of traditional profile;
 - c. All render shall be of painted roughcast;
 - d. All fascias shall be no more than two bricks in depth;
 - e. All rainwater goods shall be of painted cast metal or cast metal profile;
 - f. All fencing shall be of post and rail or of closeboard fencing with timber gravel boards and timber posts; and
 - g. All brickwork shall be of handmade sandfaced Flemish bond brick with header on side brick arches.
- 4) Prior to the first occupation of the development hereby permitted, all other buildings within the site shall be demolished.
- 5) No development shall take place until details of tree protection measures, in accordance with the relevant British Standard, have been submitted to and approved in writing by the local planning authority. Tree protection measures shall be implemented in accordance with the approved details prior to any demolition or construction works on the site and shall remain in place for the duration of any demolition or construction works.
- 6) No development shall take place until a scheme of hard and soft landscaping for the entire site, including the residential component and the communal garden area for Clocktower Mews, has been submitted to and approved in writing by the local planning authority. The scheme shall include any tree removal and retention, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge and grass establishment), a schedule of plants, noting species, plant sizes and proposed numbers and densities and an implementation and management programme. Hard and soft landscaping shall be carried out in accordance with the approved scheme, shall be implemented in accordance with the approved implementation programme and shall be maintained thereafter in accordance with the approved management programme.

Any trees, shrubs or plants which are removed, die or become seriously damaged or diseased within five years of planting, shall be replaced

within the next planting season by trees, shrubs or plants of the same size or species.

- 7) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with the relevant British Standard and current best practice, has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby permitted.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby permitted.

- 8) Prior to the first occupation of the development hereby permitted, the spaces for the parking of vehicles shall be laid out in accordance with the approved plans and shall be retained and maintained for such a purpose thereafter.