
Appeal Decision

Site visit made on 31 July 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 18 August 2017

Appeal Ref: APP/M3645/W/17/3173886

Five Gables, Domewood, Copthorne RH10 3HD

- 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 Mark Bryant against the decision of Tandridge District Council.
 - The application Ref TA/2016/1971, dated 19 October 2016, was refused by notice dated 12 January 2017.
 - The development proposed is described as "*erection of proposed dwelling in the alternative to and to the same siting and dimensions as permission granted under TA/2016/1330 for erection of outbuilding*".
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is within the Green Belt and the main issues are: -
 - Whether the proposal is inappropriate development in the Metropolitan Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether the proposal is an appropriate location for new residential development;
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide adequately for on-site renewable energy; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. The appeal site comprises a chalet style dwelling and garage with outbuildings in the rear garden. The area has a sylvan semi-rural character with dwellings set within spacious plots with space between and around dwellings. The property is bordered by trees, hedging and fencing. The proposal is to

subdivide the plot and erect a dwelling within an undeveloped part of the rear garden and create a new entrance and access.

Inappropriate development

4. Domewood, in planning policy terms, has not been classified as a defined village within the Green Belt. It is not disputed that the appeal site is within the designated Green Belt that sweeps over the existing residential estate. The appeal site forms part of the domestic curtilage of Five Gables.
5. The National Planning Policy Framework (the Framework) establishes that new buildings are inappropriate in the Green Belt, unless they would meet certain exceptions criteria set out at paragraph 89 of the Framework. The appellant puts forward that it would meet the sixth bullet point of paragraph 89 "*limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, 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*".
6. The appellant argues that the appeal site is both garden land and previously developed land. From what I saw on site and from the evidence before me the appeal site is residential garden land. Annex 2 of the Framework is clear that private residential gardens within built-up areas are excluded from the definition of previously developed land. Whilst the Council's development plan does not define this residential estate as a settlement this locality is nonetheless a built up area, although within the countryside. I do not consider this to be previously developed land.
7. I have been referred to a Court of Appeal judgement¹. The Court case deals with the private residential garden of a dwelling located outside of any existing built up area, which is not the circumstance before me here.
8. The appellant has also drawn my attention to a certificate of lawful development² that is in place that would allow the erection of an outbuilding in the same location as the proposed dwelling. However, the proposed development, that would incorporate habitable accommodation over two levels, would be a larger building than that of the outbuilding and would have a significantly greater volume. Furthermore, it would involve extensive land remodelling to create both the basement and a large sunken terraced garden. Together, the dwelling and the terrace would have a significantly larger footprint than that of the outbuilding. I attached limited weight to the existence of the certificate as a possible fallback as the proposed development would have a greater impact as a result of it being a larger development.
9. In not complying with the exception, the scheme would be inappropriate development in the Green Belt, which paragraph 87 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt. I also find that the proposal does not comply with Policy DP10 and DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014 (the Local Plan) that seek to safeguard the Green Belt.

¹ Dartford Borough Council V The Secretary of State for Communities and Local Government and Ors [2017] EWCA Civ 141.

² Council ref TA/2016/1330.

Openness of the Green Belt

10. Further to my considerations above, the development in this location would be contrary to the purpose of safeguarding the Green Belt from encroachment. The introduction of built development in this location that is currently predominantly open garden land would have a significant and negative effect on the openness of the Green Belt as it would significantly erode the openness of the immediate area to which substantial weight must be given.
11. Paragraph 79 of the Framework indicates that openness and permanence is an essential characteristic of the Green Belt. The proposal would conflict with Policy DP13 of the Local Plan as it would compromise the openness of the Green Belt and the purposes of including land within it. Consequently, there would be a significant degree of harm arising from the proposed development, in addition to that arising from the inappropriate nature of the development.

Location and accessibility

12. The Framework and development plan policies support sustainable development and seek to locate new development where residents can access services, facilities and public transport. There are no day-to-day services and facilities at this estate and future occupiers would need to travel further afield to access such facilities.
13. The appeal site is a considerable distance from the A264 Copthorne Road where the nearest bus stop is located. Whilst this serve provides links to Crawley and East Grinstead where services, facilities and public transport can be accessed, I do not consider that the bus service at Copthorne Road is sufficiently convenient to encourage future occupiers to use it. Furthermore, the volume of traffic along the A246 would discourage cycling. Future occupiers are therefore extremely likely to rely to a large extent on the use of private vehicles to access services and facilities on a day-to-day basis at larger towns and villages.
14. For the above reasons, the proposed development would not be an appropriate location for new residential development. The proposal would conflict with paragraph 55 of the Framework, Policy CSP1 of the Tandridge District Core Strategy 2008 (the Core Strategy) and Policy DP1 of the Local Plan, all of which seek to promote development in sustainable locations and with access to sustainable transport modes.

Character and Appearance

15. Policy DP7 of the Local Plan provides guidance about the approach that the Council will take in considering new development. The development should be in keeping with the prevailing landscape/streetscape and should not result in overdevelopment or an unacceptable intensification. Policy CSP18 also requires new development to reflect and respect the character, setting and local context, including those features that contribute to local distinctiveness.
16. The appellant argues that the proposed dwelling would be well contained with the existing vegetated boundaries of the site reducing its physical impact and visual harm. I largely accept these observations, noting the size and design of the proposed house would be generally consistent with other properties in the locality. I am not persuaded that the scale, form and resulting plot size would

create a development of cramped overdeveloped appearance. This is a moderate benefit of the scheme.

17. Notwithstanding the above, an important characteristic of the existing residential development in this area is that it comprises predominantly road frontage dwellings, whether positioned toward the frontage of the site or deeper within their plots. The positioning of the proposed dwelling behind existing road frontage development would not reflect that of the established pattern of development in this area and, as such, would be harmful to the area's character. This harm would not be mitigated by the imposition of conditions to retain the vegetation screen around the site or to control construction materials. This weighs heavily against the proposed development.
18. For the above reasons, the proposed development would be harmful to the character and appearance of the area. The proposal would therefore conflict with Policy DP7 of the Local Plan and Policies CSP1 and CSP18 of the Core Strategy as the proposal would not reflect and respect the character, setting and local context, amongst other matters.

On-site renewable energy

19. The appellant's statement indicates that he is willing to undertake on-site renewable energy provision. Notwithstanding this, I do not have substantive evidence before me to demonstrate that CO² reduction would be achieved by renewable energy technologies. I therefore cannot be convinced that the appeal proposal would adequately contribute to the reduction in CO² emissions through on-site renewable energy technologies, as required by Policy CSP14 of the Core Strategy. Whilst an appropriately worded planning condition could necessitate this requirement to be met, the measures that may be necessary may impact the design of the appeal proposal. For this reason such measures should be considered as an integral part of the appealed scheme.
20. I conclude that it has not been demonstrated that the appeal proposal would adequately provide for on-site renewable energy and would therefore fail to accord with Policy CSP14 of the Core Strategy, which requires all new residential development to reach a minimum percentage saving in CO² emissions through the incorporation of on-site renewable energy. This weighs moderately against the scheme.

Other Considerations

21. The appellant points out that the living conditions of the adjoining occupiers would not be harmed. I accept this observation and I attach some weight to this.
22. I have also been referred to the sustainable dimensions of the Framework. Accordingly I have considered whether the appeal proposal would be consistent with the social, economic and environmental dimensions of sustainable development, as set out in paragraph 7 of the Framework. However, it is clear to me, for those reasons set out above, that the proposed development is undesirable in planning policy terms and would compromise the fundamental objectives of Green Belt policy, placing it in conflict with the environmental dimension of paragraph 7. Good design would not mitigate this. I find the scheme does not constitute sustainable development. This weighs heavily against the scheme.

Other Matters

23. The appellant has referred me to paragraphs 186 and 187 of the Framework which places an onus on local planning authorities to look for solutions where possible and to approve applications for sustainable development. This is a matter between the applicant and the Council.
24. I note that the Core Strategy policies pre-date the Framework. I consider these policies to be consistent with the Framework, particularly in respect to sustainable development and securing a good standard of design and I therefore give them significant weight.

Conclusions

25. The combined harm caused by the inappropriateness of the development and its effect on openness and the character and appearance of the area, alongside its location and uncertainty relating to the delivery of on-site renewable energy, carry substantial weight. In contrast, the other considerations carry some or moderate weight but are not sufficient to clearly outweigh the harm to the Green Belt. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt. The proposed development would conflict with Policies DP1, DP7, DP10 and DP13 of the Local Plan, Policies CSP1, CSP14 and CSP18 of the Core Strategy and the advice in the Framework. Therefore, for the reasons given I conclude that the appeal should fail.

Nicola Davies

INSPECTOR