
Appeal Decision

Site visit made on 21 August 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 6th September 2017

Appeal Ref: APP/W0530/W/17/3176076

Church View, Newmarket Road, Stow Cum Quy CB25 9AQ

- 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 Martin Flack against the decision of South Cambridgeshire District Council.
 - The application Ref S/3430/16/FL, dated 8 December 2016, was refused by notice dated 10 February 2017.
 - The development proposed is erection of 1 no. dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have had regard to the Supreme Court Judgment: Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council which was published on 11 May 2017¹. The parties have been provided with the opportunity to comment on the judgement. I have taken into account comments received together with the judgement itself in coming to my decision.

Main Issues

3. The main issues for this appeal are:
 - (a) whether the proposal would be inappropriate development in the Green Belt;
 - (b) the effect of the proposal on the openness of the Green Belt and the character and appearance of the area; and
 - (c) if the development is inappropriate whether any harm to the Green Belt 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 it.

¹ [2017] UKSC 37 on appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin)

Reasons

4. Planning applications and appeals should be determined in accordance with the development plan² unless material considerations indicate otherwise³. The CS predates the National Planning Policy Framework (the Framework), which is a material planning consideration, by some years.

Whether inappropriate development in the Green Belt

5. Stow Cum Quy is identified as an Infill Village under Policy ST/7 of the CS and Policy S/11 of the emerging Local Plan. Inset Plan No 93 of the South Cambridgeshire Adopted Proposals Map 2010 shows the appeal site to be in the countryside some distance from the Stow Cum Quy Development Framework and in the Cambridge Green Belt. Policy GB/1 of the DPD and the Framework contain a presumption against inappropriate development in the Green Belt.
6. Paragraph 79 of the Framework indicates that permanent openness is an essential characteristic of Green Belts. The Framework goes on to state that the construction of new buildings, apart from a number of specified exceptions, should be regarded as inappropriate development in the Green Belt. Paragraph 89 of the Framework, at bullet point 5, provides for limited infilling by new buildings in villages as an exception. Although Policy GB/1 refers to previous national policy⁴ that also contained limited infilling in villages as an exception and so Policy GB/1 conforms to the Framework in this respect.
7. Church View was originally a stable block that became a dwelling following planning permission Ref S/1929/13/FL. It is at the end of a row of some dwellings which stretch along Newmarket Road. In my judgement these do not constitute a village even though some have been extended.
8. The appeal site is an area of flat grassland/paddock adjoining the garden boundary of Church View. Although the appellant says it is now unused a paddock is a beneficial use of land. To the west of the appeal site is the extensive church yard of St Marys Church. To the north and directly across Newmarket Road are agricultural fields/allotments. Although the Framework does not define "infilling" in my judgement the proposal would not amount to limited infilling as the gap between the boundary of Church View and St Marys Church building is of a good size.
9. The proposal before me is different to that of both the Winterley appeal⁵, where the appeal site was part of a garden and there were residential curtilages to either side, and the Kelsall appeal⁶, where the site was surrounded by residential plots on three sides. I have taken into account the permissions S/0534/16/FL, where it appears there were houses to both sides of the site, and S/0534/16/FL, which involved conversion of an existing building. From the available information it seems the considerations in these cases would be different to those of the appeal before me. In any event each application and appeal should be determined on its own merits.

² The development plan includes the South Cambridgeshire Local Development Framework Core Strategy 2007 (the CS); the South Cambridgeshire Development Control Policies Development Plan Document 2007 (the DPD) and the Proposed Submission Local Plan 2013 (the emerging Local Plan)

³ Section 38 of the Planning and Compulsory Purchase Act 2004

⁴ Planning Policy Guidance 2 Green Belts

⁵ Ref APP/R0660/W/14/3001214

⁶ Ref APP/A0665/A/14/2217226

10. For the reasons set out above I conclude that the proposed development would not amount to limited infilling by new buildings in villages as described in the Framework. It would therefore be inappropriate development in the Green Belt contrary to Policy GB/1 of the DPD and the Framework.

Openness of the Green Belt and the character and appearance of the area

11. Openness can be defined as an absence of built development. The proposed four bedroom dwelling would have two floors of accommodation arranged in a broad T shape. The proposed design would not be out of keeping with other properties further along and the chalet style design would have first floor rooms in the roof space and lowered eaves. Nevertheless the resultant building would introduce a significant overall mass into this undeveloped land. Notwithstanding the hedges/gates/fences around the site the upper parts of the proposed building would be visible from the approaches along Newmarket Road. The proposal would substantially reduce the gap which contributes to the rural character of the area, prevents coalescence of development and assists in safeguarding the countryside from encroachment. This would be even more important if, as the appellant asserts, it were the last remaining gap and should ancillary buildings be constructed in the garden.
12. I note that the dwelling has been deliberately sited close to the boundary with Church View so that it would read more closely with that property and to respect the setting of the Church. Whilst this would not be a determinative factor it seems to me that allowing this appeal might well result in pressure to allow development in the future of the remaining gap to the church yard boundary further reducing openness.
13. The introduction of the proposed dwelling due to its height and size would cause harm to the openness of this currently undeveloped paddock. Overall I conclude the proposal would be contrary to the purposes of the Green Belt as set out in Paragraph 80 of the Framework which include safeguarding the countryside from encroachment and to the objectives of Policies GB/b and GB/c which together seek to maintain the openness of the Cambridge Green Belt and preserve the unique setting of the city by maintaining the character and appearance of the surrounding villages. I remain of this view even taking into account the proposed landscaping and notwithstanding the highway with a pavement and cycle path in front of the site.
14. I conclude there would be significant harm to the openness of the Green Belt through the encroachment of built development into an area of open space. The proposal would also have a harmful effect on the character and appearance of the rural countryside. It would conflict with Policies GB/1, GB/2, GB/b, GB/c, DP2/1a, DP2/1f and DP3/2m of the DPD and those principles of the Framework that seek to keep Green Belt land permanently open and to protect the character and appearance of the area.

Other considerations

15. I have found that the proposal would constitute inappropriate development in the Green Belt. The Framework requires that the harm by reason of inappropriateness be given substantial weight and Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

- circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
16. Infill villages are generally amongst the smallest in the District with a poor range of services and facilities. However, there is a bus stop close to the site and bus services to Cambridge and Newmarket and, although it seems likely that future occupants would rely on the private car for most services and facilities, this is similar for occupants of adjacent houses.
 17. An additional dwelling would have some social and economic benefits, including employment during construction. Such benefits would accord with those principles of Paragraphs 47 and 55 of the Framework that seek to enhance or maintain the vitality of rural communities and to boost significantly the supply of housing. However, a single dwelling would provide limited social and economic benefits, and so I can only afford these considerations modest weight.
 18. St Marys Church is a Grade II* Listed Building. In accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have given special regard to the desirability of preserving the setting of the listed building. The proposed dwelling would be sited eastwards in the appeal site and due to its height and the trees and hedge along the site boundary I conclude the proposal would have a neutral effect on the setting of the Listed Building.
 19. I have considered the other benefits put forward by the appellant. I note the lack of technical objections by statutory consultees but these matters would have to be addressed in any event. I acknowledge the support of the Parish Council and the lack of objections expressed by third parties. There are many reasons why comments may or may not be made on planning proposals and I have reached my conclusions based on the material planning considerations rather than on the number of comments received. Whether or not the proposed dwelling would be retained for family use and the dissatisfaction the appellant has expressed with the way the Council handled the application do not go to the heart of the planning matters of the appeal before me.

Planning Balance and Overall Conclusion

20. The Council can demonstrate a 4.1 years supply of deliverable housing sites at the present time. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a five-year supply of deliverable housing sites. Policy GB/1 of the DPD states that, within the Green Belt, approval for the construction of new buildings will not be given unless it is for one of several specified purposes. It therefore has the effect of restricting the locations where housing may be developed. As a result, it affects and constrains the supply of housing land and should be regarded as a relevant policy for the supply of housing in this case. However, the Government attaches great importance to Green Belts and because it is consistent with the Framework I give it significant weight.
21. Where relevant policies are out-of-date, Paragraph 14 of the Framework indicates that permission should be granted, unless there are specific policies in the Framework which indicate that development should be restricted. One such restrictive policy is land designated as Green Belt⁷.

⁷ Footnote 9 to Paragraph 14 of the Framework

22. 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.
23. The increase in housing carries modest weight. However, even taken with the other suggested benefits, I conclude this does not clearly outweigh the harm to the Green Belt and the harm to the character and appearance of the area. Consequently, very special circumstances do not exist. In reaching these conclusions, I have taken into account the Government's 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*'⁸.
24. I have concluded that the proposal is inappropriate development that affects the openness of the Green Belt and I have found no very special circumstances to outweigh the substantial harm to the Green Belt. Overall, therefore, the proposal does not represent sustainable development. In failing to meet relevant policies as set out above, the proposal cannot comply with the development plan taken as a whole and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan. For the reasons set out above and taking into account all other relevant matters raised, I conclude the appeal should not succeed.

SHarley

INSPECTOR

⁸ Ref ID 3-034-2014006