
Appeal Decision

Site visit made on 1 August 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 8th September 2017

Appeal Ref: APP/X0415/W/17/3174460

The Nursery, Kiln Lane, Ley Hill, Chesham, Buckinghamshire HP5 3QS

- 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 R Edwards against the decision of Chiltern District Council.
 - The application Ref CH/2016/1616/FA, dated 2 September 2016, was refused by notice dated 28 November 2016.
 - The development proposed is the cessation of use of horticultural contractors site and demolition of all buildings and erection of 4 x three bedroom dwellings, car ports, parking and landscaping using the same access to Kiln Lane.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application form identified the appeal site address as land adjoining Horticon Nurseries and the application was subsequently registered and determined on the basis of this address. However, as part of the appeal submission the Appellant has referred to the appeal site as The Nursery as it forms part of the land to which Horticon Nurseries operates from.
3. Given that the appeal site can be clearly identified from the submitted plans, and that it forms part of the nursery land, I consider that the description of the site as 'The Nursery' is a more accurate address of the site. In coming to that view I am mindful of the principles of the Wheatcroft case (Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Another 1982). However, in this case I do not consider that this would result in any prejudice to any party. I have therefore determined the appeal on this basis.

Main Issues

4. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt;
 - (ii) the effect on the openness of the Green Belt;
 - (iii) other considerations; and
 - (iv) if the proposal would be inappropriate development, 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

Whether the proposal would be inappropriate development in the Green Belt

5. From the evidence before me, the lawful use of the site is for a landscape contracting business with ancillary nursery use and from my site visit I have no reason to disagree. Consequently the site constitutes previously developed land.
6. Policy GB2 of the Chiltern District Local Plan (1997) (LP) sets out that inappropriate development in the Green Belt will be refused. However, it does set out certain types of development which may be given planning permission. Policy GB2 is not entirely consistent with the National Planning Policy Framework (the Framework) and therefore in accordance with paragraph 215 of the Framework I do not give this policy full weight. However, as the Appellant has not advanced a case in relation to any of these exemptions, I consider that significant weight should still be afforded to Policy GB2.
7. Paragraph 89 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they constitute the partial or complete re-development of previously developed sites (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 development¹.
8. Therefore, in order to determine whether it would be inappropriate development it is necessary to consider whether or not the proposal would have a greater impact on openness than the existing development.

Openness of the Green Belt

9. Paragraph 79 of the Framework outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
10. The appeal site has a number of structures on it including five greenhouses and a potting shed. There is also a large gravelled area to the front of the site where vehicles park together with machinery, aggregate and pallet storage.
11. It is common ground between the main parties that the footprint of the proposed development would be less than the existing buildings on the site. However, the footprint of the existing and proposed buildings is only one factor in assessing the overall impact of a development to the openness of the Green Belt.
12. In this case, I saw from my site visit that the buildings on site are lightweight structures with large amounts of glazing. The proposed dwellings would be significantly higher than any of the existing buildings and would be of a much more substantial construction. To my mind, the increased height and bulk of the proposed dwellings would have a greater impact on the openness of the Green Belt when compared to the existing buildings despite the reduction in ground coverage.

¹ Sixth bullet point of paragraph 89 of the Framework

13. In coming to that view, I acknowledge that the development would also remove the current external storage and parking areas at the front of the site. However, this area would still be available for parking and as a vehicle turning area which limits the benefit that the proposal would have. Notwithstanding that, the removal of the storage area would not outweigh the harm to the openness of the Green Belt as a result of the new dwellings.
14. Given my conclusions above, the proposal would be inappropriate development in the Green Belt as it would not accord with any of the exemptions outlined at paragraph 89 of the Framework. Furthermore, the development would also lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment contrary to the Framework, and Policy GB2 of the Chiltern District Local Plan (1997) (LP).

Other considerations

15. The Appellant has advanced a case that the site does not fulfil the purposes of including land within the Green Belt as it does not lie on the edge of a large built up area and would not result in the unrestrictive sprawl of large built up areas. It is also submitted that as the site is surrounded by residential development on three sides, with woodland on the forth side, it would not result in neighbouring towns merging.
16. Notwithstanding that, paragraph 83 of the Framework states that Green Belt boundaries should only be altered in exceptional circumstances through the preparation or review of the Local Plan. Therefore, until such a review is undertaken, the site is located within the Green Belt and the effects of any development must be considered in line with Development Plan policy and the Framework.
17. It is also stated that the same Green Belt assessment was applied in relation to the existing dwelling to the south of the site which was permitted by the Council. I am unaware of the full circumstances of this case and therefore I give this limited weight. However, each development must be considered on its individual merits.
18. The development has been designed with the local character of the area in mind and would be in keeping with the adjoining residential development. This has been acknowledged by the Council and I have no reason to disagree with that view. The design aspects of the development are therefore favourable.
19. I have also noted that the development would result in a reduction in the number of vehicles which would access the site should the appeal succeed, and that the Appellant has offered to re-surface part of Kiln Lane. These matters are also in favour of the proposed development.
20. In addition to the above, I have also had regard to the letters of support for the development from neighbouring properties and the Parish Council.
21. The Appellant has also indicated that the Council does not have a five year housing land supply. However, I have only been provided with very limited evidence in this respect. Notwithstanding that, even if this was the case, the Framework indicates that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

22. With the exception of the harm to the Green Belt, the proposed development would not have any other adverse impacts to the area or the occupants of nearby residential properties. I also acknowledge that the development would bring some social and economic benefits to the area through the provision of new housing and during the construction phase of the development. These factors are in favour of the development.
23. From the evidence before me, it is unclear what the exact shortfall in the Council's five year housing land supply is. However, the provision of four dwellings would be unlikely to have any significant effect in reducing the deficit.
24. Moreover, the Framework indicates that where there are specific policies (in the Framework) that indicate development should be restricted² (such as land designated as Green Belt) the presumption in favour of sustainable development does not apply.
25. Considering all of the above, the harm I have identified would significantly and demonstrably outweigh the minor benefits when assessed against the policies in the Framework taken as a whole.

Green Belt balance

26. Paragraph 87 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
27. I have concluded that the proposal would be inappropriate development and would have an adverse effect on openness. It would therefore, by definition, be harmful to the Green Belt. It is also noted that both the Council and the Appellant acknowledge that unmet housing need is unlikely to outweigh the harm to the Green Belt.
28. In considering the substantial weight given to Green Belt, the benefits outlined by the Appellant do not clearly outweigh the harm to the Green Belt. Therefore, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and the development would conflict with the Framework and Policy GB2 of the LP.

Conclusion

29. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

² Footnote 9 to paragraph 14