
Appeal Decision

Site visit made on 7 November 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 29th November 2017

Appeal Ref: APP/G5180/W/17/3180358

**Land at the North/East of Rosewood Farm, Warren Road, Chelsfield, Kent
BR6 6ED**

- 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 John Ritchie against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/05334/FULL1, dated 16 November 2016, was refused by notice dated 18 April 2017.
 - The development proposed is demolition of two storage/workshop buildings and erection of a 3 bedroom bungalow and garage/parking.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of two storage/workshop buildings and erection of a 3 bedroom bungalow and garage/parking at Land at the North/East of Rosewood Farm, Warren Road, Chelsfield, Kent BR6 6ED, in accordance with the terms of the application, Ref: DC/16/05334/FULL1, dated 16 November 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appellant has submitted revised plans within the appendices of his appeal statement. These demonstrate that a footpath between the appeal site and the public highway could be provided as well as a wider access into the appeal site, which would achieve better visibility than that originally proposed. The changes are minor in scope and were submitted at the outset of the appeal. This has allowed interested parties, including the Council, to consider them. As such, I have accepted the amended plans as no party would be prejudiced by me doing so.
3. After reviewing the plans the Council have removed the objections it set out in its second and third reasons for refusal. As the appeal scheme's impact on highway safety is no longer a point in dispute, it is unnecessary for me to consider this further.
4. The Council have also removed its objection outlined in its fourth reason for refusal. This related to the absence of a pre-determination archaeological assessment and thus the potential effect upon as yet unknown archaeology. However, the Council now considers this to be a matter than can be addressed through a suitable worded condition. Such an approach would be consistent

with the approval of planning application DC/15/07024. As such, this is also not a matter that requires further detailed assessment.

Main Issues

5. In light of the preceding paragraphs, the main issues in this appeal are:
- Whether 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 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 it.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

6. Policy G1 of the Bromley Unitary Development Plan 2006 (UDP) states that a new building in the Green Belt will be inappropriate development unless it falls within specified categories. Paragraph 89 of the National Planning Policy Framework (the 'Framework') also establishes that new buildings within the Green Belt are inappropriate development unless they would be one of a number of specified exceptions. However, the list of exceptions in Paragraph 89 of the Framework is broader in scope than those listed in Policy G1 of the UDP. As such, there is an inconsistency between the UDP and the Framework and therefore, when applying Paragraph 215 of the Framework, Policy G1 is of limited weight in the particular circumstances of this appeal.
7. The appellant has suggested that the appeal scheme would not be inappropriate development in the Green Belt. This is because he considers it to be the type of development listed in the last bullet point of Paragraph 89 of the Framework, which is the limited infilling or partial or complete redevelopment of previously developed land.
8. However, a Lawful Development Certificate dated to 2002¹ places the appeal site within the residential curtilage of Rosewood Farm. This is consistent with what I observed, as the appeal site is accessed from Rosewood Farm, and it is currently being used as an extension of the domestic garden. The buildings within the appeal site are currently used for domestic storage. Moreover, the appeal site includes the part of the garden of 2 Lilly Farm Cottage which was sold to the appellant in 2000. I have not been presented with anything of substance to suggest this land has been the subject of a material change of use.
9. The appeal site is garden land and the existing buildings are ancillary domestic structures. As such, the appeal site is part of the private residential garden of Rosewood Farm. The Council have suggested that Rosewood Farm is within a built up area. I share this view as the site is broadly surrounded by development and has the visual appearance of being part of the village. As such, the appeal site is not previously developed land when applying the

¹ DC/02/02081/ELUD

definition in the Framework². Thus, the last bullet point in Paragraph 89 of the Framework cannot be applied to the proposal.

10. As such, the appeal scheme would involve the erection of a new building in the Green Belt that would not meet the exceptions listed in either Policy G1 or, more significantly in this instance, the Framework. I therefore conclude that the development would be inappropriate development which is, by definition, harmful to the Green Belt.

The effect of the proposal on the openness of the Green Belt

11. The proposed dwelling would be broadly sited in the position of the existing outbuildings. However, it would have a smaller floor area and there would be a reduction in the volume of the development within the appeal site. Moreover the bungalow would not exceed the height of the existing structures, would retain a simple form and its massing would be broken up. There would also be a greater degree of separation between the proposed dwelling and surrounding structures than currently exist with the existing outbuilding. This would improve the sense of space and openness.
12. The appeal scheme would be a dwelling whereas the existing structures have an agricultural character. The Council have suggested that the appeal scheme would harm the openness of the green belt because it would have a more urban appearance. This it, opines, would be due to the pallet of materials and the gabled roof design. The bay window and porch would also give a domestic appearance³. The roof would be finished in clay plain tiles but if a good quality tile is used then the roof could reflect the rural vernacular. The barn hip would reinforce this. Weatherboarding would be applied to the elevations and this could be treated⁴ to reflect a rural finish. There would be some domestic paraphernalia associated with the development but the appeal site is already a residential garden and therefore this could be the case at present. In this respect I noted that a large boat is currently stored at the appeal site.
13. Overall, neither the size nor visual character of the proposed building, or the development as a whole, would harm or erode the openness of the Green Belt. Instead, there would be a slight improvement in openness.

Other Considerations

14. I share the view of the Council that the appeal scheme would preserve the character or appearance of the conservation area and its significance would not be harmed. As already stated, the proposal would not prejudice highway safety due to the amended access arrangements and because sufficient off road parking would be provided. The living conditions of neighbours would be safeguarded as the roof would be devoid of window openings and noise and disturbance is unlikely to be greater than the existing situation once construction works are finished.
15. The appeal site is clearly defined being located between Rosewood Farm, the development at Orlestone Gardens and the car park and large structures at Lilly's Farm, which is a commercial premise. I have already concluded that the

² See Page 55 of the Framework. The definition of Previously Developed Land excludes land in built up areas such as private residential gardens. The appellant has not suggested the appeal scheme would adhere to the exception in the penultimate bullet point in Paragraph 89 of the Framework, which is limited in filling in a village.

³ The south east elevation would be more successful in projecting a rural character

⁴ The boarding could be painted black to respond to the scheme approved at Lilly's Farm

appeal site is in a built up area. Therefore, the development of the appeal site would have the character of infilling within a built up area.

16. The appeal site is not previously developed land but nor would its redevelopment result in a building where none currently exists. Nor would it result in development encroaching away from the village, a harmful intensification of the built form in the area or injury to any of the purposes of including land in the Green Belt. On the contrary, there would be a slight improvement to the openness of the Green Belt.
17. Lilly's Farm is previously developed land and planning permission exists for it to be redeveloped with three, four bedroom houses. There is nothing before me to suggest the scheme is unlikely to go ahead. As such, the appeal site would be surrounded on all sides by larger dwellings. The appeal scheme would be viewed as part of this development. It would also complement it and improve the immediate setting for future occupants by facilitating the removal of rather tired looking utilitarian buildings that have a bulky appearance.
18. The proposed dwelling would have some modest social and economic benefits as it would boost housing supply and choice and future occupants would live close to, and could support, local facilities including the primary school and public house.
19. Taken together, the other considerations identified in the preceding paragraphs are notable factors in favour of granting planning permission. I therefore conclude that, when taken together, the other considerations I have identified attract considerable weight in favour of the proposal.

Whether there are Very Special Circumstances

20. The appellant has suggested that it is unnecessary for him to demonstrate very special circumstances as he considers the proposal would not be inappropriate development. However, I have found that this would not be the case.
21. 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.
22. I have concluded that the proposal is inappropriate development that, by definition, would harm the Green Belt. Paragraph 88 of the Framework requires substantial weight to be given to any harm to the Green Belt.
23. On the other hand, the other considerations I have already discussed are considerable factors in favour of the development. As such, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Conditions

24. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of safeguarding the character and appearance of the area, and the living

conditions of neighbours, to ensure that the development is undertaken in accordance with the approved drawings and that a scheme of landscaping, and samples of external materials, are approved.

25. In order to ensure adequate foul and surface water drainage from the development, it is necessary to impose those conditions suggested by the Council in this regard. To protect as yet unknown archaeology it is necessary to secure a programme of investigation. Part of the justification of the appeal scheme is that it would result in a slight improvement in openness. As such, and exceptionally, it is necessary to remove permitted development rights for further development.

Conclusion

26. The appeal scheme would be contrary to the development plan taken as a whole but material considerations, mainly the policies of the Framework, indicate that planning permission should be forthcoming in spite of this. Accordingly, the proposal is sustainable development and for this reason, the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

Time Limit and Approved Plans

1. The development to which this permission relates must commence not later than the expiration of 3 years, beginning with the date of this decision notice.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following plans (or any approved non material amendment to these plans or any plans submitted pursuant to a planning condition).
 - Drawing JR/P.01 incorporating the revisions in Sketches 4 and 4A submitted with the appeal submissions
 - Drawing JR/P.02
 - Drawing JR/P.03
 - Drawing JR/P.04
 - Drawing JR/P.05
 - Sketches 4 and 4A submitted with the appeal submissions

Requirements Triggered Before the Development Commences

3. No development shall commence until details of all hard and soft landscaping have been submitted to, and approved in writing by, the Local Planning Authority.

The approved scheme shall be implemented before the end of the first planting season following the first occupation of the building.

If within a period of five years from the date of the planting, any trees or plants are removed, uprooted or destroyed or die, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

4. No development shall commence until details of a foul water drainage system have been submitted to, and approved in writing by, the Local Planning Authority.

The approved system shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

5. No development shall commence within the application site until an archaeological assessment has been completed in accordance with a written specification that has first been submitted to, and approved in writing by, the Local Planning Authority.

Requirements Triggered During the Construction Phase

6. No above ground construction shall take place on site until details (sample, name and manufacturer) of the external finishing materials to be used in the development have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.

7. The surface water drainage system indicated on the approved drawings shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

Requirements Triggered through Occupation

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting this Order) no building, structure or alterations, walls or fences of any kind shall be erected or made within curtilage(s) of the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority.