
Appeal Decision

Site visit made on 28 November 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 3rd January 2018.

Appeal Ref: APP/Y3615/W/17/3180967

Builders Yard, Woodhill, Send GU23 7JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr John Matuszewski (Martin Grant Homes) against the decision of Guildford Borough Council.
 - The application Ref 17/P/00923, dated 25 April 2017, was refused by notice dated 20 June 2017.
 - The application sought planning permission for the "Reserved Matters application pursuant to outline planning application 12/P/00774, approved 29/05/13 to consider appearance, landscaping, layout and scale in the respect of the erection of two dwellings following the demolition of existing buildings", without complying with condition 1 attached to reserved matter approval Ref 16/P/00835, dated 25 April 2016.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans 050A; 051; 052A; 055; 056; 057; 058 and 059A received on 25.04.16.
 - The reason given for the condition is: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application seeks the substitution of plans for those approved under a reserved matters approval. The main differences are covered parking/car ports located within the plots of the two permitted dwellings. In effect, the proposal is an alternative housing scheme with additional covered parking/car ports to that approved under the reserved matters approval. The decision will focus on the effect of these additional vehicle parking structures on the Green Belt.
3. The Council's second reason for refusal related to the impact of the covered parking/car port on plot 1 on the health of a tree. The Council has withdrawn this reason for refusal. Having assessed the Appellant's Arboricultural Method Statement, I am satisfied that the tree could be retained in a healthy state subject to the implementation of protective measures.

Main Issues

4. The site is within the Green Belt and so the main issues in respect of removing/varying condition 1 of reserved matters approval Ref 16/P/00835 are:

- Whether the resultant scheme would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
- The openness of the Green Belt; and
- If the scheme is inappropriate development, whether the harm caused 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 inappropriate development

5. Policy RE2 of the Guildford Borough Local Plan (LP) states new buildings in the Green Belt will be inappropriate development other than for a limited range of purposes. None of these are relevant here and therefore, the proposal would be inappropriate development under this policy. However, the Framework establishes that new buildings or development are inappropriate unless they fall within the exceptions listed in paragraphs 89 or 90. One such exception is the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), which would not have a greater impact on the openness of the Green Belt and does not conflict with the purposes of including land within it. Such an exception is not listed under LP policy RE2 and therefore, I attach more weight to the national policy given its more recent date.
6. Under the Framework exception, a key test is whether there would be a greater impact on the openness of the Green Belt. Openness is commonly taken to be the absence of built or otherwise urbanising form. In this case comparison has to be made of the former built development on the site with the proposed development. The site has been completely cleared and development has started on the two dwellings previously permitted under the reserved matters approval. Nevertheless, parties have accepted the site's previous use as a builder's yard. Based on appeal documentation, the original buildings were mainly concentrated in a long roughly L shaped building. Additionally, there was a detached outbuilding in the south western corner of the site and large areas of hardstanding available for the storage of materials.
7. The Appellant indicates that the former buildings' footprints extended to about 450m² and the submitted site layout plan shows floorspace figures for the two dwellings in square feet. In this respect, the floorspace of the completed development including the covered parking/ carports would be less than that of the former buildings. However, this is not the sole basis to judge the impact on openness as a development of a larger scale, bulk and massing can have a proportionately greater impact on openness by being more prominent.
8. Based on the appeal documentation, the former buildings would generally have a low slung appearance by reason of being single storey and extensively flat roofed. The Council has indicated that the buildings were mainly about 3.4m high and had a maximum height of 6m, which the Appellant has not disputed. In the proposal before me, there would be no significant changes to the two dwellings approved under the reserved matter approval. Each of the dwelling's first floor accommodation has been designed to be within a roof. However,

each dwelling would have an eaves height of approximately 7.6m and would have a two storey central gabled bay and two dormers straddling a roof eaves line. To the rear, the scale of each dwelling is lessened by the catslide roof but there would still be three dormers, with one again straddling a roof eaves line. Therefore, the permitted dwellings would have a substantial two storey presence.

9. Within this context, the vehicle parking structure on plot 1 would cumulatively increase the width and size of the dwelling by reason of its height and two vehicle bay design. As a result, the dwelling would possess greater scale, bulk and mass compared to the permitted dwelling. Both covered parking/carports would also spread the footprint coverage of development across the site. With their overall roof heights at maximum of 4.35m and individual footprints of about 30m², they would appear more bulky than most of the low slung former buildings on the site.
10. The covered car parking/carports would be open fronted but they would be enclosed on three sides with steeply pitched roofs above resulting in significant built forms. They would replace hard surfaced areas used for vehicle parking as part of the reserved matter approval. Nevertheless, vehicles would not always be parked during the day and would not be such permanent and substantial built features as the covered parking/car ports.
11. The scheme would still have a significant benefit in removing hard surfaced areas and areas that were formerly used for storage. However, such areas would not affect openness in the same way as proposed dwellings with their covered parking/car ports because they would be less conspicuous by being generally low level. Similarly, even if there was potential for temporary storage units to have been added, it would be reasonable to consider these to be small scale in nature. In the case of any permanent structures, they would have been likely to require planning permission and so cannot be considered. For all these reasons, the scale, bulk and massing of the proposed development would be more than the former buildings and uses on the site. Thus, there would be a greater impact on the openness of the Green Belt.
12. The Council considered that the permitted dwellings would not have had a greater impact on the openness of the Green Belt after taking into account the removal of existing buildings, hard surfaced areas and storage areas. This was indicated to be an on balance judgement. There was clearly a trade-off between the impact of first floor accommodation against the benefits of removing the greater amount of largely low-slung single storey buildings, hard surfaced areas and storage areas. However, the additional scale, bulk and massing resulting from covered parking/car ports would now tip the balance and there would be a greater impact on openness for the reasons indicated. In this regard, the spread of development further across the site would also reduce the benefit of concentrating the floorspace into two dwellings rather than having a sprawl of development across the site. The footprint of the covered parking/carports would take up only 3% of the site but for the reasons indicated, the cumulative effect of these structures has an adverse effect.
13. There would be some screening to the site. However, openness mainly has a spatial context, where the absence of built form matters irrespective of whether it may be seen. Nevertheless, there is no guarantee that trees and vegetation would remain in perpetuity. Even taking into account the

Appellant's Arboricultural report and associated recommended protective measures, there can be any number of reasons why trees and vegetation is removed or dies back, such as disease, weather or accidental damage.

14. For all these reasons, the proposal would not come within the above mentioned exception listed under the Framework. Another exception under the Framework is the extension or alteration of a building provided that it does not result in disproportionate addition over and above the size of the original dwelling. However, the development is still being carried out on the site and purpose of this proposal is to complete the development with the covered parking/carports. Thus, it has not been demonstrated that this exception is applicable here. Accordingly, the proposal would be inappropriate development for all these reasons.

Openness of the Green Belt

15. A fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Two dwellings have been permitted on the basis of no greater impact on the openness of the Green Belt but the addition of the covered parking/car ports would result in greater scale, bulk and mass which would be detrimental to the openness of the Green Belt. Although in isolation, the harm would be small, the Framework states that substantial weight should be given to any harm to the Green Belt.

Other considerations

16. The covered parking/car ports would be attractively designed and constructed, and there would be no adverse impact on the living conditions of neighbouring residents as a result of this proposal. However, good design and the lack of adverse neighbour impact is required in all new development, and therefore, such considerations would not represent benefits. The redevelopment of the site has resulted in the removal of poorly designed buildings on the site. However, this has occurred already with the development being built on the site.
17. The covered parking/car ports could be proposed at a future date by residents. However, this would be likely to require planning permission by reason of withdrawal of permitted development rights and subject to further Council determination. Therefore, it cannot be guaranteed that planning permission would be forthcoming.
18. The mechanism for applying the presumption in favour of sustainable development is set out in paragraph 14 of the Framework. Under the fourth bullet point, where relevant policies are out-of-date, permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, taken as a whole (the tilted test) or specific policies in the Framework indicate development should be restricted. Footnote 9 of the Framework indicates that specific restrictive policies include Green Belt policy. In such a scenario, the tilted test only applies if the proposal has been found to be policy compliant with restrictive Green Belt policies.

Conclusion

19. The proposal would be inappropriate development in the Green Belt which is by definition harmful. There would also be a loss in the openness of the Green Belt. The Framework establishes substantial weight should be given to any harm to the Green Belt. There would not be any significant benefits from the proposal for the reasons indicated. Therefore, 'very special circumstances' will not exist because the harm to the Green Belt by reason of inappropriateness and other harm, is not clearly outweighed by other considerations. Accordingly, there would be conflict with national policy on Green Belts to which the government attaches great importance to. For the reasons already indicated, there are no substantive considerations to outweigh this conflict.
20. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR