
Appeal Decision

Site visit made on 4 December 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 9th January 2018

Appeal Ref: APP/K0425/W/17/3179926

Land adjacent to Tollymore, Letter Box Lane, Askett HP27 9LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr M Jeffs against Wycombe District Council.
 - The application Ref 16/08473/FUL is dated 22 December 2016.
 - The development proposed is erection of 9 dwellings and garages, new access to Letter Box Lane and closure of two existing accesses.
-

Decision

1. The appeal is dismissed and planning permission is refused for the erection of 9 dwellings and garages, new access to Letter Box Lane and closure of two existing accesses at land adjacent to Tollymore, Letter Box Lane, Askett HP27 9LX in accordance with the terms of application Ref 16/08473/FUL dated 22 December 2016.

Preliminary Matter

2. During the course of the appeal the appellant submitted a Unilateral Obligation dated 20 November 2017. This is considered further below.

Main Issues

3. The Council has indicated that had it determined the planning application it would have been refused. Accordingly the main issues in this case are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness and purpose of the Green Belt;
 - the effect of the proposal on the character and appearance of the area and the Chilterns Area of Outstanding Natural Beauty (AONB), having particular regard to the form, layout and design of the scheme, including highway works;
 - the effect of the proposals on biodiversity;
 - whether or not the scheme makes adequate provision for affordable housing; and

- whether the harm to the Green Belt by reason of inappropriate development, 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 Inappropriate Development

4. Saved Policy GB2 of the Wycombe District Local Plan to 2011(as saved, extended and partially replaced) (LP) identifies that development will not be permitted in the Green Belt unless there are very special circumstances or where it falls under certain types of development. New residential development does not fall within the circumstances set out in LP Policy GB2. However, the supporting text to this policy identifies that limited infilling within identified built-up areas is acceptable where it meets the criteria of Policy GB2.
5. Policy CS9 of the Wycombe Development Framework Adopted Core Strategy Development Plan Document (CS) says that the Green Belt will be protected from inappropriate development as defined in Government policy. The Government's policy, as set out in the Framework, indicates at paragraph 89 that the construction of new buildings should be considered inappropriate development in the Green Belt, subject to a number of exceptions. Limited infilling in villages is one such exception, although the Framework does not define either 'villages' or 'limited infilling'.
6. Whilst the CS does not provide a definition in this regard either, the criteria set out in LP Policy GB4 can be used to assess whether a proposal would be upon an infill site. Policy GB4 states that 'limited infilling' is: 'building on undeveloped land within the built-up area and represents the closing of an existing small gap in an otherwise built-up frontage. The policy requires development in such circumstances to be of a scale and form comparable to the adjoining development and to not adversely affect the character of the area.
7. In my opinion where the Framework is silent, it is appropriate for a local plan to provide guidance on how it should be applied in the local area. As such, in determining whether the proposal would be limited infilling in a village, I consider it appropriate to utilise the criteria set out in the LP. The built-up areas referred to in Policy GB2 are identified in paragraph 9.16 of the LP. Askett is not identified as a built-up area. Indeed it is identified as a hamlet within the Council's 2016 Rural Settlement Hierarchy Study. The proposal would therefore result in new residential development in the Green Belt which would be inappropriate.
8. Askett has a number of facilities as set out in the appellant's statement. Even if I were to accept the appellant's argument that Askett is a village, I find that the size of the appeal site does not comprise a small gap in an otherwise built-up frontage. The site's frontage extends to approximately 74 metres which is considerably wider than the frontages of nearby development. Furthermore, I consider that the number of dwellings proposed would not be limited, particularly taking into account the character and appearance of the area, the small number of dwellings served by Letter Box Lane and the context within

which the scheme would be viewed. The proposal would not therefore result in limited infilling.

9. In light of my findings, the proposal would not fall within any of the exceptions for new buildings within the Green Belt, as set out in the development plan and national planning policy. Accordingly, it would result in inappropriate development in the Green Belt in conflict with LP Policy GB2 and CS Policy CS9. 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.
10. The appellant has cited a number of appeal decisions¹ which he considers are relevant to this case. Whilst the appeals referred to raise similar issues in respect of whether the proposal would comprise limited infilling, I find that each case is materially different to that before me, in terms of both location and site specifics. They are not therefore directly comparable to the scheme before me and I attach limited weight to them in my considerations. In any event, each planning application and appeal must be determined on its individual merits and this is the approach that I have taken.

Openness and Purpose

11. The Framework establishes that openness is an essential characteristic of Green Belts. The appeal site is an open field that is free from any built development. The proposed development of the site for residential purposes, where no buildings exist at present, would inevitably deplete the openness of the Green Belt. Consequently there would be a degree of harm arising from the loss of openness, and I afford substantial weight to the harm that would be caused by this.
12. Paragraph 80 of the Framework states that Green Belt serves five purposes including to assist in safeguarding the countryside from encroachment. The proposal would extend development on this side of Letter Box Lane into an open field and would therefore encroach into the countryside and conflict with the purpose of including land within the Green Belt. Substantial weight is given to this harm also. The presence of mature landscaping on the boundaries of the site does not mitigate this harm.

Character and Appearance

13. The appeal site is located within the Chilterns AONB. Amongst other designated areas, AONB have the highest status of protection in relation to landscape and scenic beauty. The Framework makes it clear at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in such areas. LP Policies G3 and L1 and CS Policy CS17 have similar aims.
14. Amongst other matters LP Policy L1 and CS Policy CS19 require development to be of a high standard of design and layout, which is locally distinctive and respects the character of an area.

¹ APP/M3645/W/16/3141780; APP/R3705/W/16/3144450; APP/V3615/A/12/2184747; APP/M3645/A/13/2201516

15. The appeal site is situated in an attractive rural area, served off Letter Box Lane, a narrow, no through road. Letter Box Lane provides access to number of dwellings which are of individual design and size, set in predominantly spacious plots and served off private drives.
16. The proposed cul-de-sac development of similarly designed dwellings would not reflect or respect the established character and appearance of the area. The scheme would have an urbanising effect upon this attractive rural area which would have a significant harmful effect upon the landscaped setting of this attractive hamlet and as a result, the landscape and scenic beauty of the AONB.
17. The Council has raised concern that the proposed highway works would result in harm to the character and appearance of the area. However, whilst noting the comments of the Highway Authority in respect of necessary highway improvements, at this stage I have not been provided with detailed drawings showing such works. Accordingly I am unable to take such matters into account in my consideration of the proposal.
18. In light of the foregoing, I conclude that the proposal would have an adverse effect upon the character and appearance of the area and the landscape and scenic beauty of the Chilterns AONB. This brings the scheme into conflict with the aims of LP Policies G3 and L1, CS Policies CS17 and CS19, the AONB objectives of the Framework and the Framework's core planning principles which seek to secure high quality design and take account of the different roles and character of different areas.

Biodiversity

19. Policy DM13 of the Adopted Development and Site Allocations Plan for Town Centres and Managing Development (DSAP) and Policy CS17 of the CS require amongst other matters for biodiversity to be conserved and enhanced.
20. The appellant submitted a Phase 1 Ecological Survey (ES) with the planning application which identified that the grassland and ruderal vegetation was not a suitable habitat for reptiles. It also found that the tall sward created dense shade which did not offer basking opportunities for reptiles. Whilst noting the representations made by third parties and the Council's concerns that a specific reptile survey had not been undertaken on the site, I am satisfied that the presence of reptiles, including grass snakes has been considered in the ES.
21. On the basis of the evidence before me, I am satisfied that the proposal would not have an adverse effect upon protected species. There would be no conflict with the aims of CS Policy CS17 or DSAP Policy DM13 in this regard.

Affordable Housing

22. CS Policy CS13 requires new housing developments to provide a mix of dwelling type, size and tenure. On sites, such as the appeal site, the policy requires that 40% of the bed spaces proposed are affordable dwellings. Further guidance in respect of this matter is provided in the Council's Planning Obligations Supplementary Planning Document.

23. The appellant has provided a Unilateral Obligation (UO) which would provide for a legal agreement to be entered into with a Registered Social Landlord in the event that the appeal was successful. This would relate to at least 40% of the bed spaces provided being affordable housing.
24. I am concerned that the UO lacks detail and clarity and I cannot therefore be satisfied that a level of affordable housing which accords with the CS could be achieved. I note that the Council had similar concerns in this regard. Had the scheme been otherwise acceptable, this is a matter that I would have taken up with the appellant. However in this case, the appeal proposal fails for other reasons, and it is not therefore necessary for me to pursue this matter further.
25. I therefore find that the proposal would not provide affordable housing as submitted which is in conflict with CS Policy CS13.

Other Considerations

26. The Framework advises that inappropriate development in the Green Belt should not be approved except in very special circumstances. 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.
27. I appreciate that the site has residential development on 3 sides. However, the openness and green character of the site is contiguous with and reinforces the openness of the site and nearby paddocks and fields. The site's contribution to the Green Belt and the purposes it serves is not therefore undermined.
28. The appellant has cited a number of reasons in support of the appeal proposal, including that the site has no beneficial use for agriculture, that the high hedge to the rear of the site would be removed and replaced and that the site would be improved visually. Whilst noting these matters, I do not consider that they weigh significantly in favour of the proposal. Whilst the removal of the tall evergreen hedge would be a benefit to the wider landscape, this along with the other matters raised do not justify harmful development.
29. The provision of a turning area at the end of Letter Box Lane would allow vehicles to turn in this narrow road. However, given the likely number of vehicle movements along this no through road, I do not consider that this benefit would be sufficient to outweigh the harm that I have identified.
30. The retention of native hedgerows and the lack of impact on the setting of the nearby conservation area carry neutral weight in my consideration of the proposal. The level of the appeal site relative to the lane is noted, however this would not significantly reduce the impact of the scheme on the Green Belt or the character and appearance of the area.
31. The proximity of the appeal site to bus stops and the services and facilities in Monks Risborough is noted. However, whilst the intended future occupiers would be able to access these facilities by other modes of transport other than the private car, this does not outweigh the specific policies in the development plan and the Framework which indicate in this case that development should be restricted.

32. The appellant considers that the Council cannot demonstrate a 5 year supply of deliverable housing sites. This is not disputed. In such circumstances the Framework makes it clear at paragraph 49 that relevant policies for the supply of housing should not be considered up-to-date. It further states that housing applications should be considered in the context of the presumption in favour of sustainable development.
33. Paragraph 14 of the Framework states that for decision-taking where the development plan is absent, silent or 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 this Framework taken as a whole, or specific policies in this Framework indicate development should be restricted. Footnote 9 to paragraph 14 makes reference to a number of examples where policies of the Framework indicate development should be restricted including land designated as Green Belt and AONB.
34. In this case, I am satisfied that the policies that I have considered the proposal against are not relevant policies for the supply of housing. Moreover, I have found that harm to the Green Belt by reason of inappropriate development, loss of openness and conflict with its purpose, as well as harm to the AONB and as such the application of paragraph 14 of the Framework does not indicate in this case that permission should be granted.

Conclusion

35. The new dwellings would be inappropriate development in the Green Belt. Further harm would be caused as a result of loss of openness and conflict with the purpose of including land within the Green Belt. These matters attract substantial weight. Significant harm would also be caused to the character and appearance of the area and the Chilterns AONB. The absence of a suitable mechanism to provide for affordable housing would result in harm to the objective of creating mixed and balanced communities. The other considerations advanced in support of the case carry, at best, limited weight. Taken as a whole, I conclude that the benefits of the scheme do not outweigh the harm the proposed development would cause to the Green Belt and the other harm identified. Consequently, the very special circumstances necessary to justify the proposal do not exist.
36. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR