

Appeal Decision

Site visit made on 12 December 2017

by J Dowling BA(Hons) MPhil MRTPI

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

Decision date: 15TH January 2018

Appeal Ref: APP/W0530/W/17/3180462

Site rear of 160 Histon Road, Cottenham, CAMBS CB24 8UG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs B Newitt against the decision of South Cambridgeshire District Council.
 - The application Ref S/3080/16/OL, dated 9 November 2016, was refused by notice dated 16 February 2017.
 - The development proposed is erection of 8 dwellings and garages.
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Decision

1. This appeal is dismissed.

Procedural Matter

2. The application is made in outline with all matters except for access reserved for future consideration. An indicative layout plan has been provided which shows how the site could be laid out and to demonstrate that the development could be accommodated on the site. This plan is for illustrative purposes and I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would result in flooding;
 - whether the site needs to deliver affordable housing;
 - the effect on living conditions of occupants of No 160 with particular reference to noise and disturbance; and
 - if it is 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.
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Reasons

Policy Background

4. The appellant considers that as the Council accept that they cannot demonstrate that they have five years' worth of Housing Land Supply the policies contained within the development plan should be considered out of date. As a consequence, in accordance with bullet point four of paragraph 14 of the Framework, they advocate that planning permission should be granted for the proposal without delay.
5. However, the second part of bullet point four states that this presumption in favour of development should not be applied where specific policies in the Framework indicate that development should be restricted. These restrictions¹ include land designated as Green Belt. The site is located within the Green Belt and therefore I consider that the proposal needs to be assessed against the policies contained within the Framework that deal with development in the Green Belt.
6. Furthermore, I agree with the Council that in line with the findings of the recent Court of Appeal decision² where a Council cannot demonstrate that they have five years' worth of housing land supply it is only those policies that restrict the supply of housing that should be considered out of date.
7. Policy GB/1 of the South Cambridgeshire District Council Local Development Framework Development Control Policies Development Plan Document (2007)(the DPD) states that there is a presumption against inappropriate development in the Green Belt. Although the policy draws its definition of inappropriate development from the previous guidance³ I consider that it reflects the advice contained within the Framework and as a consequence this policy can be given significant weight.

Is the proposal inappropriate development in the Green Belt and would it effect the openness of the Green Belt?

8. Paragraph 89 of the Framework states that Local Planning Authorities should regard the construction of new buildings as inappropriate in the Green Belt but then details six exceptions to this rule. The sixth exceptions allows:

"limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) whether redundant or in continuing use (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 development"
9. The proposal is for the erection of eight houses which would be partially constructed on the site of a number of existing outbuildings and hardsurfaced areas.
10. The Framework⁴ defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should

¹ Footnote 9 of paragraph 14 of the National Planning Policy Framework

² Richborough v Cheshire East and Suffolk Coastal DC v Hopkins Homes

³ Planning Policy Guidance 2: Green Belts

⁴ Annex 2 of the National Planning Policy Framework

be developed) and any associated fixed surface infrastructure. As a consequence I consider that the site is capable of being considered as previously developed land.

11. However, the exception also requires that any development of previously developed land should not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
12. The proposal would result in the replacement of the existing outbuildings, hardsurfaced areas and part of the rear garden with eight houses with garages and an access drive. The appellant considers that the existing hedges would screen the proposal and as a consequence would not affect the openness of the Green Belt. Whilst I recognise that the hedge affords some limited screening, openness in the context of the Green Belt means freedom from development. The proposal would result in the introduction of a significant quantum of built form into what is currently a relatively open area.
13. Paragraph 79 of the Framework indicates that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. I acknowledge that No 160 forms part of a larger village. However, No 160 is at the very edge of the village adjacent to open countryside and the proposal would have the effect of spreading housing further westwards thereby eroding the overall openness of the Green Belt.
14. As a consequence I consider that the proposal would not fall within the exceptions set out in paragraph 89.
15. Paragraph 90 of the Framework provides a list of five other forms of development that are also considered not inappropriate. I have assessed the proposal against this list and consider that it would not fall within any of these categories.
16. I therefore conclude that the proposal would not fall within the exceptions of development in the Green Belt and would adversely affect the openness of the Green Belt contrary to the Framework and policy GB/1 of the DPD which states that there is a presumption against inappropriate development. As a result I consider that the proposal would be inappropriate development.
17. As inappropriate development is, by definition, harmful to the Green Belt in accordance with paragraph 88 of the Framework I must give this substantial weight when reaching my conclusions.

The effect of the proposal on the character and appearance of the area

18. This part of Cottenham is characterised by houses fronting the road on long linear plots which back onto open countryside. No 160 is located on the edge of the village, a mature hedge runs along the side and rear boundary separating the site from the adjoining open agricultural fields.
19. I observed at my site visit that within Cottenham there are a number of examples of development extending behind the frontage houses. However, the nearest example to the appeal site is of glasshouses which are more reflective of the predominantly agricultural character of the area. With the exception of ancillary outbuildings the areas to the rear of the existing houses on this part of Histon Road remains relatively open and free from development.

20. Whilst the scheme would be at a relatively low density. The proposal would result in the introduction of a significant amount of development that, in order to accommodate the number of units proposed would need to extend some distance back from Histon Road. The proposal would result in a different layout and urban grain to the established pattern of development and given the location of the site it would not integrate with or reflect the character of this part of Cottenham. As a consequence I consider that the proposal would result in the urbanisation of this section of the road and the extension of the built form of Cottenham which would adversely change the character and appearance of the site and the surrounding countryside.
21. As a result I consider that the proposal would be contrary to policies DP/2 and DP/3 of the DPD which require new development to be preserve or enhance the character of the local area, respect local distinctiveness and resist the grant of planning permission where development would have an unacceptable adverse impact on the countryside. As these policies relate to character and appearance I consider that they are not policies that constrain the supply of housing and as such I do not consider that they are out of date and can give them significant weight when reaching my conclusions.
22. Furthermore, the proposal would be contrary to the Framework⁵ in that it would be harmful to the intrinsic beauty of this part of the countryside and would not appropriately respond to local character⁶.

Whether the proposal would result in flooding

23. In order to address concerns regarding surface water drainage and flood control measures the appellant submitted further information from the Environment Agency regarding the flood history for the site. Had I been minded to allow the appeal I would have sought clarification from the Council as to whether they considered that this addressed their concerns. However, as I intend to dismiss the appeal for other reasons, I have not pursued this matter further with the parties.

Whether the site needs to deliver affordable housing

24. Policy HG/3 of the DPD requires that 40% of the units on schemes for two or more houses should be affordable. To support this, the Council have submitted evidence demonstrating that there is a significant need for affordable housing in the district.
25. The proposal would not deliver any affordable housing either on-site or through a contribution to off-site provision as the appellant considers such an approach accords with the Written Ministerial Statement (the WMS) of 28 November 2014. The WMS advocates that for developments of 10 units or less, and which have a maximum combined gross floor space of no more than 1000sqm, no affordable housing or tariff style contribution should be sought. This approach is reflected in the Planning Practice Guidance⁷.
26. The statutory position is that planning applications have to be determined in accordance with the development plan unless material considerations indicate

⁵ Paragraphs 17 and 58

⁶ Paragraph 58

⁷ Paragraph: 031 Reference ID: 23b-031-20161116

otherwise. I consider that policy HG/3 accords with the Framework⁸ and furthermore as it is not a policy that would constrain the supply of housing I do not consider that it is out of date. As a consequence I consider that in order to comply with Policy HG/3 that the scheme would need to deliver an element of affordable housing either on-site or through a financial contribution to off-site provision. In coming to this conclusion I have had regard to the WMS as a material consideration and whilst I judge that I can afford it significant weight it does not outweigh the substantial weight that I attach to policy HG/3 and local housing need.

27. Affordable housing would need to be delivered through either a Section 106 agreement or Unilateral Undertaking. As neither have been provided I therefore consider that the proposal would be contrary to policy HG/3 and the Framework.

The effect on living conditions of occupants of No 160 with particular reference to noise and disturbance

28. I agree that the proposed new units would not be overbearing on the occupants of neighbouring properties; cause loss of light or result in overlooking. However, the new units would be accessed via a drive that would run alongside the existing house.
29. I acknowledge that there is a current driveway in a similar location and as such to some extent the noise and disturbance from vehicle movements along this route has already been established. However, the proposal would result in the creation of eight new dwellings and thus there would be a considerable increase in the number of vehicle movements. Furthermore these movements would be undertaken by separate households rather than the existing residents. As a consequence I consider that they would give rise to noise and disturbance to the detriment of their living conditions of the occupiers of No 160.
30. For these reasons I conclude that the proposal would adversely impact on the living conditions of the occupiers of No 160 contrary to policy DP/3 which advocates that planning permission will not be granted where it would have an unacceptable adverse impact on residential amenity. This policy is consistent with the Framework which seeks, among other things, to secure a good standard of amenity for all existing and future occupants of buildings⁹.

Other matters

31. The appellant has made reference to a number of other schemes in the surrounding area which they cite as setting a precedent for the proposal. However, I consider that these are perceived in a different visual and policy context to the appeal site and for the reasons outlined above they do not lead me to a different view in this case.
32. I do not consider the fact that neighbours have not objected to the proposal outweighs the harm I have identified above.

⁸ Paragraph 216

⁹ Paragraph 17

If it is 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

33. I accept that the scheme would deliver several social and economic benefits. The delivery of housing is a clear benefit of the scheme which reflects one of the key objectives of the Framework. Furthermore, in the short term the proposal would deliver a number of construction jobs and local investment and in the longer term the new units would bring new households which would use local businesses and services. As a result I accept that the scheme would deliver a number of positive benefits.
34. However, whilst I acknowledge that the proposal would boost the supply of housing in accordance with the Framework this would be very modest, would not deliver any affordable units and is any event significantly and demonstrably outweighed by the harm to the Green Belt, the character and appearance of the area and living conditions that I have identified above.
35. As a result I do not find that the other considerations in this case clearly outweigh the harm I have identified. Looking at the case as a whole, I consider that the very special circumstances required to justify the development do not exist. Consequently the proposal would be contrary to policies GB/1, DP/2, DP/3 and HG/3 of the DPD and the requirements of the Framework.

Conclusion

36. I therefore conclude that the proposal would be inappropriate development in the Green Belt as defined by the Framework. The proposal would extend the built area and erode the openness of the Green Belt. As outlined above I give only limited weight to each material consideration cited to support the proposal and conclude that, taken together they do not outweigh the harm that the scheme would cause. Consequently, I conclude that the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. For the reasons outlined above, and having regard to all other matters raised, I conclude that the scheme is not sustainable development for which the Framework indicates that there should be a presumption in favour and therefore the appeal should be dismissed.

Jo Dowling

INSPECTOR