
Appeal Decision

Site visit made on 5 December 2017

by N A Holdsworth MCD MRTPI

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

Decision date: 29 March 2018

Appeal Ref: APP/N0410/W/17/3181513

Land adjacent to Brick House, Brickfield Lane, Burnham, SL1 8LF

- 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 Atkinson of Charlesgate Homes Limited against the decision of South Bucks District Council.
 - The application Ref 17/00781/OUT, dated 27 April 2017, was refused by notice dated 22 June 2017.
 - The development proposed is outline application for a serviced custom build plot.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application that led to this appeal was submitted in outline with all matters reserved. The supporting plans were limited to a block plan of the site identifying the location of the existing structures within it. I have had regard to this plan in determining this appeal. No other illustrative or indicative plans showing how the site may be developed were provided. I have dealt with the appeal on the basis of the information before me.

Main Issues

3. The appeal site is within the Green belt and so the main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - 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; and
 - If the proposal 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.

Reasons

4. I observed that there are a number of small, single storey structures currently on the site including a stable block, a timber shed and a breeze block structure capped with a corrugated metal roof. The remainder of the site was in use as a paddock for keeping horses, with a hardstanding and vehicular access from Brickfield Lane.
5. The National Planning Policy Framework (the Framework) makes clear that substantial weight must be given to any harm to the Green Belt, with the aim of planning policy in relation to such areas being to prevent urban sprawl by keeping land permanently open. Paragraph 89 of the Framework advises that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a limited number of exceptions. Saved Policy GB1 of the South Bucks District Local Plan 1999 (the Local Plan) takes a similar approach insofar as it only allows certain forms of development to take place within the Green Belt; however this development plan policy predates the publication of the Framework and is not entirely consistent with it. As such, the weight that I will attribute to this policy is limited to the extent that it is consistent with the Framework.
6. The exceptions to inappropriate development set out in paragraph 89 of Framework include buildings for agriculture and forestry, the provision of facilities for outdoor sport and the extension or alteration of buildings. None of these directly apply to the circumstances of the current proposal. Although limited infilling in villages is permitted, the appeal site is outside of the main built up area of Burnham and so is not within a village. Nor is it proposed to build affordable housing for community needs. Another exception relates to replacement buildings, but this is provided the new building is in the same use than the one it replaces, which would not be the case here.
7. As such, the most relevant exception to inappropriate development listed in paragraph 89 is set out in the 6th bullet point which refers to *'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'*. The Council regard the use of the land as previously developed as it comprises an equestrian use. However, in order to meet the terms of this exception it is also necessary to demonstrate that there would be no greater impact on openness and the purpose of including land within the Green Belt.
8. The proposal differs from an earlier appeal decision¹ relating to a two storey dwelling, in that it is now submitted in outline with no details being provided of the proposed residential development. I observed however that the existing buildings on the site are limited to one storey in height, and are dispersed around the site. Furthermore, reflecting their equestrian use, they are of limited depth. The buildings do not, even cumulatively, have the same degree of bulk and permanence than one would reasonably associate with a permanent residential dwelling.
9. No evidence, for instance through indicative plans, has been submitted that demonstrates a residential development could be carried out in such a way that

¹ APP/N0410/W/16/3165493.

would not result in a significant consolidation and volumetric increase of built form, whilst also being of a scale that would provide acceptable living conditions for future occupants. Consequently, on the evidence before me, I consider that any detailed plans advanced at the reserved matters stage would lead to a significant increase in built form compared with the existing position, thus leading to a loss of openness.

10. Paragraph 80 of the Framework states that one of the purposes of the Green Belt is '*to assist in safeguarding the countryside from encroachment*'. The site at present is in use as a paddock and equestrian facility. As such, it has a strong visual and functional connection to the open land that surrounds it, and represents a type of development that would typically be associated with an open and undeveloped countryside setting.
11. Whilst no details of the proposed building are provided, any residential development would lead to a change in the appearance of this site through its domestication. This would be likely to be apparent in, amongst other things, formal landscaping arrangements with associated furniture and domestic paraphernalia that are ordinarily associated with permanent residential development.
12. The appellant indicates that the existing paddock would be retained for equestrian use and the extent of residential curtilage would be limited to the hardstanding which currently surrounds the stables. However, the paddock area is part of the application site, and no detailed information is provided demonstrating how the two uses would be separated. Whilst it is argued that the existing site has an overgrown appearance and the development would 'tidy up' the site, it nonetheless retains an open and substantially undeveloped character and appearance, which is consistent with the character and the appearance of the land that surrounds it.
13. The residential development of the site would add to an existing group of residential buildings which address Brickfield Lane. However, these buildings are surrounded by open countryside, of which I consider the site currently forms a part. As such, the development would lead to the further urbanisation of this part of Brickfield Lane. This represents an incongruous form of development in a setting where the prevailing surroundings are of open countryside. Consequently, I consider that the development would conflict with the purpose of Green Belt policy of safeguarding the countryside from encroachment.
14. It therefore follows that the proposed development would have a greater impact on the openness of the Green Belt, and the purposes of including land within it than the existing development, and would not therefore meet the test set out in the 6th bullet point of paragraph 89 of the Framework. Nor would it meet any of the other exceptions set out in paragraph 89. The development would also fail to meet any of the exceptions listed in paragraph 90 which includes mineral extraction, engineering operations, transport infrastructure, the reuse of buildings and development brought forward under a Community Right to Build Order. I therefore conclude on this issue that the proposal is inappropriate development in the Green Belt which, according to Framework, is harmful by definition. The Framework advises that substantial weight must be given to this harm.

Effect on openness

15. I have found in my reasoning above that, given that it has not been demonstrated that a residential development could be undertaken on the site without exceeding the bulk and mass of the existing buildings, the development would result in a loss of openness. I consider this would result in a moderate level of harm to the openness of the Green Belt, as a result.

Effect on character and appearance

16. I have found in my reasoning above that the development would represent an encroachment of built form within a countryside setting. The existing equestrian use of the site complements the appearance of open countryside found in the surrounding area. By contrast, the construction of a residential building, together with its domestic curtilage, would result in the urbanisation of the site, and would appear incongruous in its countryside setting. This would also lead to harm to the character and appearance of the area, to which I assign a moderate degree of weight.

Other Considerations

17. For the proposal to be acceptable, other considerations weighing in favour of the development must clearly outweigh the harm I have identified above.
18. The appellant argues that the proposal would provide a custom-build property and a unilateral undertaking ("UU") has been provided that would limit the future development of the site to that of a 'custom-build' dwelling. The effect of this would be to limit the ability to develop the site, to someone who would ultimately occupy the dwelling.
19. Reference is made to support for custom build in the "*Housing White Paper: Fixing our broken housing market*" (2017) ("Housing White Paper"), and the document "*Support for small scale developers, custom and self builders*" (November 2014); alongside the various legislative provisions set out in the Self-build and Custom Housebuilding Act 2015 ("The Act"). Amongst other things, the Act places a duty on relevant authorities to keep a register of individuals and associations of individuals who wish to acquire serviced plots of land to bring forward self-build and custom housebuilding projects.
20. The appellant contends that the Council has set up a self-build register and notes that, whilst demand exists for such plots, including 49 approved applications to join the register between 1st April 2016 to 31st October 2016, no plots are currently available within the local authority area. Furthermore, attention is drawn to the absence of any relevant development plan policy in relation to the provision of such sites.
21. The proposal would in principle deliver one additional custom build unit, which would increase the supply of housing within the local area and meet an established demand for a bespoke type of new housing. It would be located in reasonably close proximity to local services and amenities, including schools. Furthermore, on the evidence before me there is a lack of available land which could be used for the purposes of the construction of such buildings. I agree that, in this regard, the proposal would serve an established demand, and agree that this is a material planning consideration that weighs in favour of the development.

22. The proposed development would be located on a previously developed site, where there is no evidence of flood risk, and which is not currently allocated for housing and would therefore represent a windfall. In addition to fulfilling a need for custom building housing, it would therefore also help achieve some of the objectives of the housing policies set out within the South Bucks Local Development Framework Core Strategy (Adopted February 2011). The appellant also draws attention to other parts of the Housing White Paper which, amongst other things, supports the provision of new housing on previously developed land, including windfall sites such as this. The development would also help achieve the objective, set out in paragraph 50 of the Framework, of providing for a mix of housing based on the needs of different groups within the community, including people wishing to build their own homes.
23. However, the proposal would only provide one additional custom build unit. Considering its overall effect on the supply of housing within the District, including custom build houses, its contribution would be limited. As such, the benefits of one additional custom build housing unit only attract a moderate amount of weight, in the overall planning balance.
24. The appellant maintains that the development would also achieve the goal of promoting home ownership in rural areas. However there is no evidence before me to demonstrate that the dwelling would serve an essential local housing need, nor that it would otherwise have any functional connection to the working of the surrounding countryside.
25. It is also argued that the building would have sustainability benefits. However no firm details are provided of what these would be, and it is not therefore possible to take them in to account in the decision. Whilst the site is regarded as previously developed land, the prevailing appearance of the site and surrounding area is of open countryside. I do not therefore agree that the proposal would help achieve the objective of assisting in urban regeneration.
26. The appellant maintains that the Council do not have any policy for the provision of custom build housing and small developments on windfall sites. He considers that, given the silence of the development plan on these matters, the presumption in favour of sustainable development, as set out in paragraph 14 of the Framework, applies. However, I have found in my consideration of the main issues in this appeal that the proposal conflicts with other policies in the development plan. Furthermore, there are specific policies in the Framework relating to the protection of the Green Belt that, on this occasion, indicate development should be restricted. Consequently, the presumption in favour of sustainable development, as set out in the Framework, does not apply.
27. In dealing with this appeal I have had regard to 3 other appeal decisions. Firstly, in finding that the development would amount to inappropriate development in the Green Belt I have arrived at the same conclusion as a previous Inspector, when considering another appeal at the same site². However, the previous decision was informed by a specific proposed building, which is not the case in the proposal before me. Whilst the appellant maintains that the proposed development would be smaller than the previous scheme and the ridge height could be limited, the application was submitted in outline and no indicative or illustrative plans were submitted to demonstrate that acceptable proposals could be advanced at the reserved matters stage.

² APP/N0410/W/16/3165493.

28. Furthermore, it will also be clear from my reasoning above that the deficiencies with the proposal extend beyond the size of the proposed building, as they relate to the encroachment of residential development in to open countryside. In this regard, my findings are consistent with the previous inspector, who found that the development would lead to the 'further urbanisation of street scene which is characterised by its rural appearance' (para 13). Consequently, the proposal could not be made acceptable by imposing limitations on the overall size of any replacement building on the site. Nor, on the evidence before me, is there any significant likelihood that these concerns could be addressed through screening or landscaping. As such, the proposed development could not be made acceptable through the use of planning conditions.
29. The appellant draws attention to another appeal decision within the same authority where another Inspector allowed an appeal involving the replacement of a mobile home with a dwelling in the Green Belt³. However, there are two factors that, in my view, mean that the two cases are not directly comparable. Firstly, in that case the residential use already existed. That is not the case here, where a change of use is proposed. Secondly, in that case the argument was advanced and accepted by the Inspector that there would be a significant, cumulative reduction of built form on the site which would lead to the betterment of the Green Belt. Again, that is not the case here.
30. Finally, another appeal decision is cited regarding the provision of 4 self-build units within another local authority⁴. However, this case does not appear to be located in the Green Belt. Whilst I note in that case the Inspector gave significant weight to the provision of 4 self build housing units, it falls within a different local authority and housing supply context, and the cases are not therefore directly comparable. In allowing that appeal, that Inspector also took into account a UU that sought to secure that site for its intended purpose. It will be clear from my reasoning above that I agree that the UU provided by the appellant would also secure the site for the purposes of custom-build. However, in this case the location of the site within the Green Belt means that its location is unacceptable, even for a custom-build unit, so the appeal is failing for other reasons. Consequently, the UU provided by the appellant does not amount to a reason to grant planning permission.
31. Reference is also made to a High Court case⁵, which found that the failure to take account of any need or demand for custom/self-build housing as a material consideration to be weighed against a breach of the development plan amounted to an error of law. It is clear from my reasoning above that I have taken into account the need and demand for custom/self-build housing as a material consideration in this decision. The other court case⁶ cited by the appellant is of limited relevance to this decision, because it principally relates to the interpretation of paragraph 55 of the Framework which is not a significant matter of dispute between the main parties in this appeal.

³ APP/N0410/W/17/3172501.

⁴ APP/W0340/W/15/3051146.

⁵ Charlesgate Homes Ltd vs Secretary of State for Communities and Local Government and West Berkshire Council (High Court of Justice, 4th August 2017)

⁶ Braintree District Council vs Secretary of State for Communities and Local Government (High Court of Justice, 15 November 2017)

Conclusion

32. To conclude, the development amounts to inappropriate development in the Green Belt. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The development would also result in harm to the openness of the Green Belt and the character and appearance of the area. On this occasion, whilst I give a moderate amount of weight to the provision of one additional custom build residential dwelling, the substantial weight to be given to Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances. The proposed development therefore conflicts with saved policies GB1 of the Local Plan and the relevant parts of the Framework which prevent inappropriate development within the Green Belt unless very special circumstances exist. It also conflicts with saved policy EP3 of the Local Plan which, amongst other things, requires that new development must be compatible with the character of the site, adjoining development and the locality in general. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Neil Holdsworth

INSPECTOR