



Appeal Decision

Site visit made on 5 June 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Appeal Ref: APP/L3625/W/19/3223793

131 London Road North, Merstham, Surrey RH1 3AL

- 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 Muhammad Daood against the decision of Reigate & Banstead Borough Council.
 - The application Ref 18/02535/F, dated 19 November 2018, was refused by notice dated 5 February 2019.
 - The development proposed is described as extension of existing house and conversion into 5 self contained flats of 5 x 2B. Together with the construction of 2 outbuildings to form 2No. x 1B/2P detached units. Demolish existing garages and form 8 parking spaces along with bicycle and refuse storage areas.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An application for costs was made by Mr Muhammad Daood against Reigate & Banstead Borough Council. This application is the subject of a separate Decision.
3. The description of development provided on the application form includes 'construction of 2 outbuildings to form 2No. x 1B/2P detached units'. The outbuildings would in fact be detached dwellings. The appellant's submissions further explain that the development should be treated as a '7 unit flatted development'. However, given that the 2 units would be wholly detached and would not form part of a building from some other part of which they were divided horizontally, they would not be flats. I have therefore considered the appeal scheme on the basis that it involves the provision of 5 flats and 2 detached houses within the same plot. I note that the Council also considered the scheme on this basis.

Main Issues

4. The main issues are:
 - whether the development would be inappropriate development in the Green Belt;
 - the effect of the development on the living conditions of future occupants with particular regard to the provision of internal and external space, outlook and privacy; and

- if the development is inappropriate, whether 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 development would be inappropriate development

5. The site lies within the Metropolitan Green Belt. It currently consists of a large plot containing a chalet bungalow.
6. The National Planning Policy Framework (the Framework) states that local authorities should regard construction of new buildings in the Green Belt as inappropriate. A number of exceptions are however outlined. These include in paragraph 145(c), the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building, and in paragraph 145(g), limited infilling of previously developed land which would not having a greater impact on the openness of the Green Belt than the existing development.
7. A previous planning permission, reference 18/01646/F (the approved scheme), was granted for extension of the existing dwelling and its conversion to 5 flats. The approved enlargements are annotated on the submitted plans, alongside further enlargements now proposed. The Council presents no clear view of whether the combined enlargements would or would not be disproportionate. It nonetheless states however that alongside the previously approved enlargements, the additional enlargements would not individually add significantly to the scale and mass of the dwelling. Indeed, notwithstanding the overall increase in the volume of built-form, the additional enlargements would be well absorbed visually. For this reason the exception set out in paragraph 145(c) of the Framework is applicable with regard to the proposed enlargements.
8. As noted above however, the development has been presented as a single residential scheme, and the proposed site layout and infrastructure reflects this. The proposed building enlargements are not therefore a clearly severable element, and must therefore be considered alongside the proposed houses.
9. With regard to paragraph 145(g) of the Framework therefore, the status of the site as previously developed land is not in dispute. I see no reason to reach any other conclusion based on its use, location and context. Given that the proposed houses would occupy land within the existing plot, they would not fill any distinct space or gap. The resulting intensification of development on the plot would nonetheless entail increased filling of the plot itself. The resulting infilling would furthermore be limited insofar as the 2 houses would be of very modest size relative to the main building and broader plot.
10. Construction of the 2 houses would result in the provision of buildings where none currently exists. In simple spatial terms therefore, the proposed buildings would have a greater impact on the openness of the Green Belt than the current development.
11. Due to their position relative to the main building, their distance from the street frontage, changing levels, and site enclosure, limited views of the proposed houses would be available from the public realm. In contrast to the

more substantial height and mass of the main building the proposed houses would also appear as somewhat subservient elements. Though associated parking would be visible at the front of the site, this would only cause an intermittent reduction in openness, the development would therefore have a modest adverse effect on the openness of the Green Belt overall. The impact would nonetheless be greater than that of the existing development. Consequently, the proposed construction of 2 houses would not be in accordance with the exception set out within the first bullet of paragraph 145(g) of the Framework. As such the scheme would, as a whole, be inappropriate, and by definition harmful to the Green Belt.

12. The appellant has also referenced the exception currently set out in paragraph 146(d) of the Framework which states that the re-use of buildings is not inappropriate development in the Green Belt where they would be of permanent and substantial construction. However whilst paragraph 146(d) most logically applies to buildings which are disused, the scheme otherwise involves new-build. Therefore paragraph 146(d) of the Framework is not applicable.
13. I conclude therefore that the development would be inappropriate within the Green Belt, and would thus conflict with Policy Co1 of the Reigate and Banstead Borough Local Plan 2005 (the Local Plan), Policy CS3 of the Reigate and Banstead Local Plan: Core Strategy Adopted July 2014, and the Framework, which each seek to prevent inappropriate development in the Green Belt. I attach substantial weight to the harm that would be caused.

Living conditions

14. The Council does not have an adopted policy which requires conformity with an internal space standard. Emerging Policy DES5 of the Submission Development Management Plan 2018-2027 May 2018 (the DMP), does however require that amongst other things, new residential development should as a minimum meet the relevant nationally described internal space standard (the NDSS). The DMP is now at a very advanced stage in its production, having undergone examination and consultation on modifications. With regard to paragraph 48 of the Framework, given the advanced stage of the DMP, the lack of any unresolved objections to Policy DES5, and fact that reference to the NDSS within Policy DES5 is consistent with footnote 46 of the Framework, I accord it significant weight.
15. The NDSS sets minimum gross internal floor areas (GIFAs), minimum bedroom dimensions, floor areas for storage, and floor to ceiling heights. These measures are inter-linked, and all must be met in order to comply with the NDSS. In this instance the Council appears to have considered the scheme only in relation to GIFAs.
16. With regard to units located in roof, it is unclear to what extent the quoted GIFA figures take constrained floor to ceiling heights into account. The appellant's own figures otherwise show that 5 out of 7 of the proposed units would fail to meet the minimum GIFAs set in the NDSS, including both of the houses. Here the degree of failure with regard to Flat 2 would be greater than indicated given that it is arranged over 2 storeys, whereas the NDSS figure quoted is for a single storey dwelling. The consequence of this failure to meet the gross internal floor area standard would be the provision of cramped accommodation within 5 of the 7 units.

17. The appellant suggests that adjustments of wall thicknesses of the 2 houses could help to address shortfalls. There is however no clear certainty that this would be the case, and even if it did occur the scheme would still fail to comply with the NDSS as a whole.
18. The appellant further indicates that the shortfalls in GIFAs would be relatively small, and in some cases less than within the approved scheme. The level of shortfall would indeed vary, and would be modest in some cases, but this would not alter the fact that shortfalls would exist.
19. Insofar as shortfalls also exist within the approved scheme, I note that this was assessed at a point when the DMP was at an earlier stage in its preparation, and when Policy DES5 would thus have attracted less weight than now. The approved scheme would also provide a different range of accommodation to that now proposed, and fewer sub-standard units overall. As such I see no reason to consider that the potential to construct the approved scheme provides justification for the provision of substandard accommodation within the appeal scheme.
20. Though the appellant makes further reference to a proposal pre-dating the approved scheme, this has little relevance to the assessment of the appeal given that it was refused planning permission, with the refusal upheld at appeal; reference APP/L3625/W/17/3187476. Unlike the approved scheme it does not therefore represent a fallback.
21. The Council has raised further concern in relation to the 'unneighbourly presence' of the 2 houses relative to the main building, which I interpret as relating to the outlook of future occupants of the flats located immediately adjacent. With regard to Flat 2, it is apparent that despite differing levels all the windows but that over the stairs would face immediately towards unit F7. Given the close proximity of unit F7, the effect would be oppressive. Unit F7 and unit F6, would also affect the outlook of bedroom 2 of Flat 3, with the proximity of unit F6 again oppressive.
22. The proposed units would share outdoor amenity space. Insofar as this would apply to the flats, the arrangement would be no different to that within the approved scheme. Given that the outdoor space would be of substantial size, and the houses would be of similar size to the flats, I see no particular reason why the 2 houses could not also share this space.
23. The Council's further concerns regarding the privacy of future occupants of the houses are unclear. Indeed, no views between the windows of the houses and ground floor flats would exist, and whilst occupants of some first floor flats would look over the roofs of the houses, the relative positions of windows serving habitable rooms would not allow views into the houses themselves.
24. For the reasons outlined above I conclude that whilst the development would not have an unacceptable effect on the living conditions of future occupants with regard to the provision of outdoor amenity space and privacy, it would nonetheless provide inadequate internal space, and an unacceptable standard of outlook for 2 of the proposed flats. It would therefore conflict with emerging Policy DES5 of the DMP, which requires compliance with the NDSS, and Policy Ho9 of the Local Plan, which requires the environment created for residents of a proposed development to be satisfactory in terms of outlook. I attach substantial weight to the harm that would be caused.

Other considerations

25. The appellant argues that construction of outbuildings matching the dimensions of the proposed houses would be permitted development, with consequently similar effects on openness. The appellant furthermore considers that such outbuildings could then be subject to residential conversion. However, no evidence has been set before me which indicates that in the event the appeal was dismissed outbuildings matching the dimensions of the proposed dwellings would be built in the locations in question. Indeed, I consider this to be unlikely on account of the fact that this would have an adverse effect on the outlook from the existing dwelling. Furthermore, there is no certainty that in the event that such outbuildings were constructed, their residential conversion would be permitted. I therefore attach limited weight to this consideration.
26. The Environmental Impact Assessment (EIA) screening direction provided in relation the appeal scheme concluded that the proposal would not be likely to have effects of a scale and nature likely to result in a significant environmental impact. The direction was however made in order to establish the need for an EIA, not with regard to whether the development would be acceptable in broader planning terms. As such the EIA screening direction has not affected my consideration of the planning merits of the appeal scheme.
27. The site is located within the Surrey Hills Area of Outstanding Natural Beauty (the AONB). I have therefore had regard to the statutory purposes of the AONB's designation, most particularly to conserve and enhance the natural beauty of the area. In this regard paragraph 172 of the Framework, states that great weight should be given to conserving and enhancing landscape and scenic beauty within ANOBs. The Council has not identified any adverse impact, and given the enclosed nature of the site, its proximity to a major road and other dwellings I see no reason to reach a different conclusion.
28. Though the appellant indicates that an absence of objection on AONB grounds should indicate acceptability in Green Belt terms the specific considerations, as outlined above, are different. Acceptability in AONB terms does not therefore lend weight in favour of the scheme.

Planning Balance and Conclusion

29. The proposed development would be inappropriate development in the Green Belt. This is a matter to which I attach substantial weight. The development would also provide unacceptable living conditions for future occupants. This is a matter to which I also attach substantial weight.
30. The other considerations referred to by the appellant carry limited weight, and are insufficient to outweigh the harm to the Green Belt, and harm to the living conditions considered in combination. Consequently, harm caused by the proposal would not be clearly outweighed by other considerations, meaning that the very special circumstances necessary to justify the development do not exist. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR