
Appeal Decision

Site visit made on 5 April 2019

by Jan Hebblethwaite MA Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 31st July 2019

Appeal Ref: APP/T2215/W/18/3213421

Downs Lodge, Green Street, Green Road, Darenth, Dartford Kent DA2 6NR

- 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 P. Buchan and D Watts against the decision of Dartford Borough Council.
 - The application ref DA/18/00594/FUL, dated 4 May 2018, was refused by notice dated 11 July 2018.
 - The development proposed is demolition of existing buildings and erection of three-bedroom bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are
 - (1) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework¹ and development plan policy;
 - (2) the effect of the proposal on the openness of the Green Belt;
 - (3) if the proposal is inappropriate development, whether there are any circumstances which would outweigh the harm caused by inappropriate development in the Green Belt;
 - (4) whether the proposal would provide adequate living conditions for future occupiers and its effect on the living conditions of the occupiers of the existing neighbouring houses;
 - (5) whether future occupiers of the proposal would be unduly reliant on the use of a private car; and
 - (6) 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.

¹ National Planning Policy Framework

Reasons

Whether the proposed scheme is inappropriate development

3. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is the redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
4. The appeal site contains slightly run-down single storey stable type building typical of outbuildings in the Green Belt, an area of hardstanding and open grassland. It is accepted by all parties that the appeal site constitutes previously developed land. Therefore, under paragraph 145(g), an analysis of the impact on the openness of the Green Belt of the existing buildings and of the proposed development will determine whether the proposal is inappropriate development.
5. I have considered the appellants point that the existing building could be extended under the GDPO. However, any expansion would be for a use which is appropriate to the open countryside. Any other use would require planning permission. Therefore, the impact on the Green Belt of an extension to the existing building would be likely to be little different to that which exists.
6. I have taken into account the other decisions referred to by the Appellant. The 2014 permission at Benlin Farm Cottage is not comparable as it relates to the conversion of an existing building in the curtilage of a residential property. Both that permission and that for Downs Farm House contain conditions which require occupation of the new units to be ancillary to the main house in each case and prevent occupation as self-contained residential units.

Openness and the Green Belt

7. The Framework (paragraph 133) states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of green belts are their openness and permanence. The Court of Appeal ² has confirmed that “openness” has both spatial and visual aspects.
8. The Inspector in the earlier appeal (APP/T2215/W/173173649) concluded in relation to openness and the Green Belt that:

14. While the overall effect on openness would be modest, the proposal would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. It therefore would not meet the requirements of the sixth bullet point exception of paragraph 89 of the Framework and so would be inappropriate development in the Green Belt, which is by definition harmful to the Green Belt.

[NB. Reference to the Framework in this extract is to the 2012 Framework which was current at the time of the decision in July 2012].

9. The appellants’ statement (at points (a) to (g) on page 3) seeks to show that the current appeal proposal deals with the concerns of the previous Inspector.

² *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466 and *Samuel Smith Old Brewery (Tadcaster) & Oxtan Farm v North Yorkshire CC & Darrington Quarries Ltd* [2018] EWCA Civ 489

- Point (a) is that it was agreed by the Council and the previous Inspector that the appeal site is previously developed land. Although the current appeal proposal is not on the same footprint as the existing outbuildings, I do not disagree that the site is previously developed land within the definition in the Glossary to the Framework.
10. Points (b) to (d) and (f) are that the footprint of the proposed bungalow, its height and volume are all reduced from the previous proposal and that the bungalow is moved back within the site. I accept that this is the case, and that when viewed from the open countryside to the south, the bungalow would be seen in the visual context of the neighbouring double garage/games room.
 11. The bungalow itself is compact in design but would nevertheless introduce a domestic use to the whole of the site and which would be markedly different to the current use. Whilst the design of the bungalow seeks to minimise its visual impact, it cannot limit the domestic use of the unbuilt parts of the site. It is not just the visual and spatial impact of the building which affects the openness of the Green Belt, but also the impact of domestic use of the entire curtilage associated with the bungalow. The compact nature of the bungalow means that storage space within the building would be at a premium, leading to pressure for external storage which would add to the spatial and visual impact of the development. Additions and extensions could be controlled by condition, but domestic equipment does not always need planning permission and could nevertheless have a detrimental visual impact. In view of the relationship between the new bungalow and the neighbouring garage/games room, there would need to be a substantial boundary to replace the existing minimal post and wire fence. Landscaping would be required between Downs Lodge and the new bungalow, and between Downs Farm and the bungalow. Paths and parking spaces would need to be laid out, all of which will detract from the openness of the site as it currently appears.
 12. The appellants' point (e) explains that the site area is reduced from that in the previous appeal, although exact measurements are not given. I see that an area of land to the east of the appeal site has been excluded from the application and would be grassed as a paddock (drawing VKY/02-18/D3). Of itself, that area would have limited value for grazing and the retention of a relatively small area of grass would not overcome the concerns I have set out above in relation to the harm to the openness of the Green Belt.
 13. The Appellant's point (g) is that there would be less land within the curtilage of the bungalow on which residential activities would take place, that the bungalow would be "barely visible" from the surrounding Green Belt land and that the bungalow would be dominated by the neighbouring garage. The removal of a portion of the site from the application does not in my opinion have any effect in reducing the visual impact of the residential use of the site. I accept that the neighbouring barn is considerably larger and more imposing than the proposed bungalow, but it is the harm caused by the residential use of the proposed development which causes harm to the openness of the Green Belt. The existence of another building, albeit larger, does not mitigate that harm.
 14. Paragraph 134 of the Framework sets out the purposes of the Green Belt, one of which is to assist in safeguarding the countryside from encroachment. On the analysis above, I conclude that the proposed development is inappropriate

development in the Green Belt because it serves to introduce a domestic use of the whole site and detrimentally affects the openness of the Green Belt. I acknowledge that there are other domestic properties nearby, but by infilling this plot, the urbanising effect on the area as a whole causes harm. The proposal therefore conflicts with Policy CS13 of the Dartford Core Strategy (DCS) and Policy DP22 of the Dartford Development Policies Plan (DDPP) both of which seek to protect the Green Belt. The proposal fails to fall within the exception set out in paragraph 145(g) of the Framework.

Living conditions

15. The position of the bungalow means that windows in habitable rooms are close to the boundaries with the neighbouring properties. The occupiers of the property would be likely to plant hedges or erect fences to protect their privacy, even if there were to be no condition requiring boundary treatment. Fences of a height sufficient to provide privacy would be close to the windows, reducing light into the rooms. This would result in gloomy living conditions for the occupiers of the bungalow. These fences or hedges would also have an impact on the occupiers of Downs Lodge, although there would be less impact on the neighbours to the north and east.
16. I find therefore that the proposal would not provide adequate living conditions for future occupants and would harm the living conditions of the occupants of neighbouring residential properties, with regard to light. As such, it would be contrary to Policy CS17 of the DCS which deals with the design of homes and Policies DP2 which seeks to ensure that the design of development relates well to neighbouring properties.

Reliance on private transport

17. Policy DP6 relates to housing in Dartford and DP6(2) specifically deals with unplanned windfall sites. Policy CS10 relates to Housing Provision and sub paragraphs 4 and 5 deal with windfall sites. For those sites of less than five units (and therefore not identified in the DSHLAA³), consideration will be given to the sustainability of the site for housing, amongst other matters.
18. The appeal site is accessed from a private road. The junction with the public highway (which has bus services) is some 150m (Council's measurement) or 350m (Appellants measurement) along a narrow, unmade road with no separate pedestrian footways and no lighting. The road slopes down from the site, fairly steeply in places. In winter or at night this would be an unappealing walk or cycle route and occupiers would be more likely than not to use a car. The nearest facilities are over a kilometre from the appeal site. Whilst those in the Fleet Estate are close to the appeal site as the crow flies, they are not directly accessible on foot, other than via Trollingdown Hill. For these reasons, I consider that future occupiers of the bungalow would be unduly reliant on the use of a private car. The site therefore fails the requirements of Core Strategy Policy CS10 and Dartford Development Policies Plan Policy DP6.

Other considerations

19. The proposed bungalow would make a modest addition to the housing supply and would generate some modest economic benefits in terms of employment during the construction period and local expenditure by future residents.

³ Dartford Strategic Housing Land Availability Assessment

However, these benefits would be relatively minor and are common to most developments of this type and size.

Conclusion

20. The proposal would constitute inappropriate development in the Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. Even when taken together, the other considerations in this case would not clearly outweigh the harm to the Green Belt, and the other harms arising from the proposal. Consequently, the very special circumstances necessary to justify the development do not exist. The development would therefore be contrary to the Dartford Core Strategy Policies CS10 and CS13, to Policies DP6 and DP22 of the Dartford Development Policies Plan, and guidance contained in the Framework.
21. For the reasons given above I conclude that the appeal should be dismissed

Jan Hebblethwaite

INSPECTOR