



Appeal Decision

Site visit made on 6 August 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 12 August 2019

Appeal Ref: APP/M3645/W/19/3225837

48 Crawley Down Road, Felbridge RH19 2PS

- 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 Simon Patience of New Homes Ltd against the decision of Tandridge District Council.
 - The application Ref TA/2018/2153, dated 23 October 2018, was refused by notice dated 7 January 2019.
 - The development proposed is described as the outline planning application for the construction of seven dwellings, each with a detached garage, with vehicular access provided via the existing access onto Crawley Down Road. To include the demolition of the existing dwelling house and ancillary structures.
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Decision

1. The appeal is dismissed

Procedural Matters

2. The proposal is for outline permission with landscaping matters reserved. I have determined the appeal on this basis.
3. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Main Issues

4. The main issues are:
 - Whether the proposal is inappropriate development within the Green Belt, including its effect on the openness of the Green Belt, having regard to the Framework and any relevant development plan policies;
 - Whether the location of the site is suitable for residential development, with particular regard to the accessibility of services and facilities by means other than the private motor car;
 - The effect of the proposal on the character and appearance of the surrounding area;
 - Whether the proposed development would provide adequately for on-site renewable energy; and,

- If the development is inappropriate, 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

Whether Inappropriate Development and Openness

5. The appeal site is located within the Green Belt. The Framework makes clear that substantial weight must be given to any harm to the Green Belt, with the fundamental aim of planning policy in relation to such areas being to prevent urban sprawl by keeping land permanently open. Policy DP10 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014¹ (the Local Plan) provides that planning permission for inappropriate development within the Green Belt will normally be refused. This is consistent with the terms of the Framework.
6. Policy DP13 of the Local Plan concerns the construction of new buildings in the Green Belt and provides that unless very special circumstances can be clearly demonstrated, the Council will regard the construction of buildings as inappropriate development. However, subject to other Policies contained within the Development Plan, exceptions to this include limited infilling or the partial or complete redevelopment of previously developed sites in the Green Belt (outside the Defined Villages) where the proposal would not have a greater impact on the openness of the Green Belt. This Policy broadly reflects the terms contained within paragraph 145 of the Framework.
7. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate development unless the proposal falls within one of the exceptions listed. In this case, the proposal is advanced on the basis that the development would accord with the exceptions for the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
8. The Framework explains that the essential characteristics of Green Belts are their openness and their permanence. In broad terms, 'openness' means an absence of buildings or development, regardless of how obtrusive or screened they may be. The openness of the Green Belt has both spatial and visual aspects.
9. The appeal site comprises a well-proportioned two storey dwelling with detached outbuildings set within generous grounds. The dwelling is positioned in the north east corner of the site and is accessed via a driveway which connects to Crawley Down Road. The proposal would involve the demolition of the existing dwelling and associated outbuildings and the erection of seven two storey dwellings each with a detached garage. Whilst I acknowledge that the site is relatively well screened from views from Crawley Down Road, the site is nonetheless visible from the adjacent public footpath as it crosses a large open field to the north west of the site.
10. In this case the proposed seven dwellings, in combination with the proposed detached garages, would have a larger overall footprint and floorspace than the existing dwelling and associated outbuildings and, by reason of the elevation of

¹ Adopted July 2014

the site above the level of the open fields to the north, would have a greater visual prominence than the existing development. Consequently, there would be a reduction to the openness of the site both in terms of a visual aspect as well as a spatial aspect.

11. In light of the above reasons, the appeal scheme would not comply with the exception in paragraph 145(g) of the Framework regarding previously developed land, as the proposal would have a greater impact on the openness of the Green Belt than the existing development.
12. In respect of whether the proposal would constitute "limited infilling in villages" in the context of paragraph 145(e) of the Framework or "limited infilling" in the context of paragraph 145(g) of the Framework, whilst I acknowledge the Appellant's submissions, I am not persuaded that the appeal scheme would accord with these exceptions.
13. In terms of paragraph 145(e) even if the site was judged to fall within the village of Felbridge, the site is largely separated from other development within Felbridge on this side of Crawley Down Road by a large open agricultural field and, therefore, the proposal would not infill a small gap in an otherwise continuous built frontage which, in my view, would be necessary, in this respect, to meet with this exception.
14. Furthermore, I am also mindful that the appeal site is occupied by an existing dwelling and outbuildings which would be demolished and replaced by the appeal scheme, rather than the infilling of an existing gap. In these circumstances, I find the proposal is for the redevelopment of a site and should not be classed as infilling. On that basis, the proposal would not fall within the exception to inappropriate development within the Green Belt referred to in paragraphs 145(e) and 145(g) of the Framework.
15. For the above reasons, I conclude that the proposal would amount to inappropriate development which would result in a loss of openness of the Green Belt. The proposed development would be contrary to Policy DP13 of the Local Plan and would be in conflict with the provisions of the Framework.

Location of Development

16. Policy CSP1 of the Tandridge District Core Strategy² (the Core Strategy) sets out the spatial strategy for the District and, in order to promote sustainable patterns of travel, directs development towards named large settlements which it defines as 'Category 1 Settlements'. This Policy further provides that development within named 'Larger Rural Settlements' and 'Green Belt Settlements' will be permitted where it meets the needs of that rural community.
17. The Core Strategy predates the Framework. As such, the relevant policies of the Core Strategy should be given weight according to their degree of consistency with the Framework. In this regard, Policy CSP1 of the Core Strategy is consistent with paragraphs 102 and 103 of the Framework which, amongst other things, seek to promote a sustainable pattern of growth by making the fullest possible use of public transport, walking and cycling.

² Adopted October 2008

18. Felbridge is the nearest settlement which provides access to a variety of facilities and services necessary for day to day living. The site is located just outside of that settlement but is connected to it by a wide footway which runs adjacent to Crawley Down Road. Furthermore, there are bus stops positioned along Crawley Down Road and located close to the appeal site. In my experience, the walking distance to either the nearest bus stops or to Felbridge itself, would not deter most people from choosing to travel there on foot or by bicycle.
19. For these reasons, whilst I acknowledge that the site is located outside of the settlement boundary, I consider that the potential occupants of the proposed dwellings would be not necessarily reliant on using private motor cars for most journeys, as the location of the site close to day to day services and facilities to be found within the settlement boundary of Felbridge, would not discourage them from using other modes of transport. I therefore conclude that the proposal would be sited in a suitable location within the context of Policy CSP1 of the Core Strategy and Policy DP1 of the Local Plan and those parts of the Framework which together seek to promote development in sustainable locations and with access to sustainable transport modes.

Character and Appearance

20. The appeal site is located in an area which is semi-rural in nature, given the existing large agricultural fields to the north and east of the site and the nearby small cluster of buildings west of the appeal site. Plot 1 of the proposed dwellings would be set back from the Crawley Down Road frontage, similar to the other dwellings within the area, with all the proposed plots providing a level of external amenity space consistent with those of the existing dwellings which are located closest to the site.
21. There are a variety of differing building positions and styles forming the residential properties in the area. I find that the proposed dwellings would suitably complement the other development in the locality, in terms of their design, scale and spread of development.
22. As noted above, the proposed dwellings would be visible from some public vantage points and in particular from the public footpath as it crosses the agricultural field northwest of the site. However, in the context of the nearby residential development west of the site, the proposed dwellings would not appear materially out of place. I accept that the proposal would result in an increase in the scale and spread of development at the appeal site, but taking into account the position of the appeal site, land levels and the relatively close relationship with nearby properties west of the site, I do not consider that the proposal would cause any significant harm to the character and appearance of the area.
23. For the above reasons, the proposed development would not have a significant detrimental impact on the character and appearance of the area and, consequently, it would accord with the design, character and appearance aims and objectives of Policies CSP18 and CSP21 of the Core Strategy and would comply with Policy DP7 of the Local Plan.

Renewable Energy

24. Policy CSP14 of the Core Strategy requires residential development of less than ten dwellings to achieve a 10% saving in carbon dioxide emissions through on-site renewable energy. I have not been provided with any details of how the proposal would meet the required carbon dioxide saving. However, I note that the Appellant has offered to be bound by a pre-commencement condition requiring the approval of such details in the event that the appeal was successful.
25. Nonetheless, it is unclear how the proposed development would meet the required standard, and whether the provision would have other implications in terms of its effect on the character and appearance of the surrounding area. By reason of this uncertainty, the issue could not be reasonably dealt with by a condition. I am therefore unable to conclude that the proposal would incorporate measures to reduce carbon dioxide emissions through on-site renewable energy provision and, consequently, the appeal scheme would conflict with Policy CSP14 of the Core Strategy.

Other Considerations

26. I have identified that the scheme would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development means that this harm alone attracts substantial weight. The development would also have an adverse effect on the openness of the Green Belt and would therefore be contrary to the purposes of the Green Belt as set out in the Framework.
27. It is common ground between the main parties that the Council is unable to demonstrate a five year housing land supply. Nonetheless, the presumption in favour of sustainable development and the 'tilted balance' addressed by paragraph 11 of the Framework, would not be engaged in this instance. This is due to paragraph 11(d) of the Framework setting out that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a clear reason for refusing the development proposed. Footnote 6 of paragraph 11 of the Framework confirms that the policies would include those in the Framework relating to land designated as Green Belt.
28. As I have already concluded, the proposed development would conflict with paragraphs and policies from the Framework related to Green Belt which, for the reasons set out above, provide a clear reason for refusing the proposed development. Consequently, even though the Council is shown to be unable to demonstrate a deliverable 5-year supply of housing land, the 'tilted balance' would not be applicable.
29. Notwithstanding the above, the use of previously developed land to provide seven additional dwellings to the local housing market would be an undoubted social benefit of the proposed development, albeit given the quantum of development the weight to be attached would be limited. The local economy would also have the potential to have some limited benefit during the construction period and through expenditure from future occupiers providing support for local services and facilities.

30. The appellant has drawn my attention to a number of planning applications which have been approved within the surrounding area. I do not have the full details of these cases and so cannot determine whether the circumstances are entirely analogous to the present cases. Notwithstanding this, I note that several of the matters cited relate to areas within different local planning authorities and I have not been provided with details of the policies which the respective local planning authorities used in the assessment of those applications. Furthermore, the development that is cited and located at Pixiewood Farm can be distinguished from this present matter by reason of the very special circumstances that existed in that case regarding an existing planning permission which acted as a fallback position. Accordingly, I have determined this case on its individual merits and based upon the evidence before me.
31. When taken together, the considerations being put forward in favour of the development would not be sufficient to clearly outweigh the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

32. The proposal would constitute inappropriate development in the Green Belt and significant harm would be caused to openness. This is a matter to which I afford substantial weight. Additionally, there is conflict with the development plan in relation to a failure to demonstrate how the proposed development would achieve the required saving in terms of carbon dioxide emissions. Whilst the proposal would be located close to services, would not have a detrimental impact on the character and appearance of the area and would not lead to any significant highway safety implications, these are matters of limited consequence in the overall planning balance. The substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
33. As such, the proposed development conflicts with policies DP10 and DP13 of the Local Plan and the relevant parts of the Framework which prevent inappropriate development in the Green Belt, in addition to the other development plan policies cited in my reasoning above. There are no material planning considerations in this instance which would justify a decision other than in accordance with these Policies in the development plan. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR