

## Appeal Decision

Site visit made on 3 September 2019

**by Stuart Willis BA Hons MSc PGCE MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 September 2019**

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**Appeal Ref: APP/M3645/W/19/3229644**

**The Drake, Green Lane, Shipley Bridge RH6 9TJ**

- 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 & Mrs M Guascone against the decision of Tandridge District Council.
  - The application Ref TA/2019/200, dated 29 January 2019, was refused by notice dated 27 March 2019.
  - The development proposed is construction of a pair of semi-detached dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form.

### Main Issues

3. The main issues of the appeal are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies;
  - Whether the proposed development would provide a suitable site for housing, having regard to proximity to services, facilities and jobs and reliance on motor vehicles; 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*

4. The appeal site is situated in the Green Belt. The Framework outlines that the construction of new buildings, other than in connection with a small number of exceptions, should be regarded as inappropriate in the Green Belt. Inappropriate development according to the Framework is harmful to the Green Belt and should not be approved except in very special circumstances.
5. One of the exceptions is limited infilling in villages. Another exception is the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land). This is providing the development would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt where the development would contribute to meeting an identified affordable housing need.
6. Policy DP10 of the Tandridge Local Plan, Part 2: Detailed Policies 2014-2019 (LP) states that within the Green Belt, planning permission for any inappropriate development which is, by definition, harmful to the Green Belt, will normally be refused. Inappropriate development is only permitted where very special circumstances exist, to the extent that other considerations clearly outweigh any potential harm to the Green Belt by reason of inappropriateness and any other harm.
7. Policy DP13 of the LP states that limited infill development is restricted to within the Defined Villages. It also refers to the limited infilling or partial or complete redevelopment of previously developed sites within the Green Belt. This is permitted where the proposal would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
8. The Council have not disputed that the development would be limited or infill. Given the size of the development and location between residential properties I see no reason to reach a different conclusion.
9. The site is not within the boundary of a village as defined in the LP. As such, it would not comply with the definition of limited infill development according to the LP. The Framework does not provide a definition of a "village". I recognise the Braintree judgement<sup>1</sup> identified that an assessment of the immediate context of a site, based on the particular circumstances of the individual case, is required when considering whether or not a site is within a village.
10. The appeal site is located within a gap between properties and there are commercial uses in the area. Notwithstanding this, rather than being part of a continuous line of development, the site is within one of several dispersed groups of dwellings. There is a lane through to other groups of dwellings. Nonetheless, there is a clear break between the group where the appeal site is located and the denser, more continuous development nearby. It is a greater distance to where the majority of services and facilities are located. Moreover, the surrounding open fields creates a distinct separation from any village.

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<sup>1</sup> (Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin), along with the subsequent Court of Appeal judgement (Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610)

Although there are a number of properties outside the settlement boundary, the site is outside, and is clearly distinct from, any village. As such, while not isolated in the context of paragraph 79 of the Framework, the development would not be limited infilling in a village.

11. The Framework indicates that openness is an essential characteristic of the Green Belt. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
12. The surrounding area is relatively low density and the Council have not raised any concerns regarding the impact of the proposal on the character and appearance of the area. Nevertheless, the scheme would introduce 2 no 2 ½ storey dwellings into a space where there is currently no built development. As such, the introduction of the built form of 2 dwellings would inevitably reduce the openness of the Green Belt in spatial terms.
13. There is mature vegetation to the rear boundary of the site and boundary fencing to the sides. These would reduce the locations where the properties would be visible from. Nevertheless, the proposed dwellings would be clearly visible from the vehicle access points to the front of the site, as well as from nearby properties above the boundary treatments. Moreover, any domestic curtilage would have a visual impact on the Green Belt when compared to the existing circumstances. While the appellant refers to fly tipping at the site, I saw that this is low level and relatively unobtrusive. The proposal would have a far greater visual impact.
14. In both spatial and visual terms, the proposal would have a greater impact on the openness of the Green Belt than the existing situation. While the harm would be moderate, this would be contrary to the Framework where it states an essential characteristic of Green Belts are their openness. Moreover, I have found that the site is not within the village. While the appellant indicates the properties would be for family members unable to afford housing in the Borough, there has been limited evidence provided to demonstrate the proposal would contribute to meeting an identified affordable housing need. Furthermore, there is no mechanism before me to secure the property as affordable housing.
15. Therefore, even if I were to consider the site to be previously developed land, when judged against national and local policy the proposal would be inappropriate development in the Green Belt which, according to the Framework is harmful by definition. It would conflict with Policies DP10 and DP13 of the LP and the Framework.
16. The development would fail to assist in safeguarding the countryside from encroachment, one of the 5 purposes of the Green Belt. Even though it relates to 2 dwellings, it would nevertheless not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

#### *Location of Development*

17. The appeal site is located within a cluster of dwellings but outside the defined boundary of any village or settlement. In the wider area there are further pockets of development which include residential properties and commercial premises. Other than a nearby public house/restaurant there did not appear to be any other services and facilities in the nearby area.

18. My attention has been drawn to services, facilities and employments sites in settlements such as Copthorne, Crawley, and Horley. Notwithstanding this, these are some distance from the site. Moreover, large parts of the routes to access these, including the initial route from the site are unmade, unlit or have no footpaths or designated cycle ways. Given these characteristics, the routes would be uninviting to pedestrians and would not encourage cycling to the services and facilities.
19. Bus stops along Antlands Lane have been highlighted with bus services running to settlements where there are services, facilities and employment. While these give the potential for public transport to be used, I have not been provided with details of the frequency or timing of the bus services. Therefore, I cannot be sure this represents an attractive or probable option. Moreover, existing routes to reach these bus stops are generally unlit and have no designated pedestrian footways. As such, the routes to them would be uninviting and unlikely to encourage their use.
20. I recognise that there is generally a greater reliance on the private car in more rural areas and that there are already residential properties near the site. Moreover, I acknowledge the modest scale of the scheme and the level of housing supply in the area. However, there would be a lack of sustainable transport choices available to enable future residents to conveniently access services, facilities and jobs without being largely reliant on the private motor car. While any contribution is worthwhile, being for 2 properties, any additional support to existing rural services and the community would be limited. Although dwellings in such a location may not be uncommon, these factors would not justify the additional movements associated with the proposal.
21. I therefore find that the proposed development is not a suitable site for housing, having regard to its proximity to services, facilities and jobs and reliance on motor vehicles. The proposal would be contrary to Policy CSP1 of the Tandridge District Core Strategy (CS) and Policy DP1 of the LP. These, in part, outline a presumption in favour of sustainable development and promote sustainable patterns of travel. In addition, in order to make the best use of previously developed land they seek to locate development where there is a choice of modes of transport available and where the distance to travel to services is minimised
22. The proposed dwellings would not be spatially isolated in the sense that they would be a close distance from other buildings. However, this does not justify the introduction of dwellings at the site given the relevant policy aims of the Framework for homes to have good access to services and employment opportunities, to minimise the need to travel and promote sustainable travel modes that limit future car use.

#### *Other Considerations*

23. I acknowledge the desire of the appellant to provide housing for their family and the affordability of properties in the area. However, I have been provided with limited information in this regard. Therefore, I give this little weight.
24. The Council accept that they do not have an up-to-date 5 year housing land supply. However, the Framework indicates that the presumption in favour of sustainable development outlined in paragraph 11 does not apply where the application of policies that protect areas or assets of particular importance

provides a clear reason for refusing the development proposed. The Green Belt is an example of such areas/assets and the proposal is contrary to the relevant policies of the Framework in regard to these.

25. I acknowledge there is a lack of a sufficient supply of a housing in the area and the general thrust of national policy seeks to boost housing provision. Nonetheless, being for only 2 dwellings the contribution of the scheme would be modest. I therefore give this matter moderate weight. Given the scale of the proposal, benefits associated with the construction and occupation of the property, including supporting rural services and energy efficiency would be small. These matters attract limited weight.
26. The refusal reasons do not relate to matters such as living conditions of occupiers of nearby properties, highway safety or impacts on the character and appearance of the area. A lack of identified harm is a neutral factor that does not diminish the harm identified.
27. I have given weight to the benefits of the development in my decision that in some respects aligns with local and national policy. Even if the site were previously developed land, in this case the harm I have identified would outweigh the benefits as a whole.

### **Conclusion**

28. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also lead to a moderate loss of openness to the Green Belt and harm from a reliance on motor vehicles. The other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Furthermore, the proposal would be contrary to Policies DP1, DP10 and DP13 of the LP and Policy CSP1 of the CS and the Framework.
29. Therefore, for the reasons given I conclude that the appeal is dismissed.

*Stuart Willis*

INSPECTOR