
Appeal Decision

Site visit made on 23 September 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Appeal Ref: APP/M2270/W/19/3231692

Builder's Yard, Badsell Road, Five Oak Green, Tonbridge TN12 6QR

- 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 Silvercrest Construction Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref 18/03915/FULL, dated 17 December 2018, was refused by notice dated 27 February 2019.
 - The development proposed is the demolition of existing buildings and erection of detached dwelling for residential purposes, with associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether, with regard to local and national planning policies:
 - the proposed development would be inappropriate development in the Green Belt;
 - the appeal site is an appropriate location for the development; and,
 - if the proposed development would be inappropriate, the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development

3. Saved policy LBD1 of the Tunbridge Wells Borough Local Plan 2006 (LP) requires development outside the limits of built development (LBD) to accord with the policies of the Local Plan. Saved LP policy MGB1 indicates that the openness of the Green Belt will be preserved and that no development which would conflict with the purposes of including land within it will be permitted. Core policy 2 of the Core Strategy 2010 (CS) sets a general presumption against inappropriate development in the Green Belt, and it requires development to accord with national planning policy.
 4. The National Planning Policy Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate.
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Paragraph 145 sets out a number of exceptions to this, the most relevant to this proposal being paragraph (g). This concerns 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.

5. The development would result in the removal of the existing buildings and structures on the land for the construction of a house. The Council's figures show the floorspace of the proposed house at 345m² with a footprint of 240m². This would be substantially less than the floorspace of the existing structures given as 387m². In addition, the Council has issued a Certificate of Lawful Use or Development for storage buildings and containers which cover 516m², which is also greater than the floorspace of this proposal.
6. I appreciate that these figures suggest that the proposed development would have less impact on openness than the existing. However, the existing arrangement is of generally small and short structures concentrated towards the periphery of the site, with a barn in the centre of the site. The proposed development, while it would retain space in place of the present peripheral structures, would concentrate the new floorspace in the centre of the site in a single building. I have taken into account the highly modelled form of the building, with low-pitched roofs at varying orientations, which would reduce the apparent mass across the wings. However, the wings are long, and when combined with the height of the 2-storey section in the middle, with a ridge substantially higher than the present barn, the overall effect on the openness of the Green Belt would be greater.
7. I acknowledge that the proposed house would incorporate a triple garage and a store within it. This would reduce pressure to build outbuildings in the garden of the house. I have taken into account that some of the tall boundary walls could be lowered, to increase openness. Despite these positive factors, the combined effect of the concentrated height and volume of the proposed building over the existing development, together with the domestic paraphernalia which would surround the building such as washing lines, play equipment, parking, garden structures and the like, the proposed development would have a significantly greater impact on the openness of the Green Belt than the existing development.
8. The proposed development would therefore be inappropriate development, placing it in conflict with CS policy 2, saved LP policies LBD1 and MGB1 and the Framework which says that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. It requires that substantial weight be given to any harm to the Green Belt.

Location of the proposed development

9. The last appeal decision¹ described the appeal site as being 600m from Five Oak Green and 1,400m from Paddock Wood. It lies outside the LBD, in the countryside, where CS policies 1, 6 and 14 and saved LP policy LBD1 apply. These set out the spatial strategy for development, prioritising previously developed land in or adjacent to the LBD of settlements, and permitting, outside the LBD of villages, affordable housing.

¹ Appeal Ref: APP/M2270/W/17/3174184

10. The section of Badsell Road outside the site is narrow and busy with traffic, and there is no street-lighting or footway. These factors make it unlikely for the Badsell Road to be used for walking to these centres, especially in darkness and in poor weather. I appreciate that there is a footway leading to Five Oak Green from the west of the site, but to reach it would require walking in the road or clambering across soft verges, a short but perilous journey, especially for the less mobile. For similar reasons, cycling too would not be an attractive alternative to the private car.
11. I note that the proposal would connect to the public footpath through the fields close to the site leading to Paddock Wood. However, given the length of the cross-country section and its terrain, this would be unlikely to be used at night, in the winter season, by those with young children, or those less mobile. The appellant refers to bus-stops in the vicinity, however, there are no details of services, and the difficulty in reaching them would remain. The distance of the site from day to day services and facilities, and the limited access to them, suggest that future occupiers would be dependent on the private car. In this respect, the site is not well placed for new housing.
12. The Framework promotes sustainable development in rural areas, indicating that housing should be located where it will enhance or maintain the vitality of rural communities. It says, in paragraph 79, that decisions should avoid the development of isolated homes in the countryside. I acknowledge the other dwellings in Badsell Road, which mean the proposed house would not be isolated. Notwithstanding this, and that the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the proposal would nonetheless be contrary to the Framework in respect of achieving sustainable development with due regard to managing patterns of growth in order to promote sustainable transport.
13. The proposed development would not therefore be in an appropriate location, having regard to the spatial strategy of the borough and the accessibility of the site to services and facilities. It would conflict with CS policies 1, 6 and 14, and saved LP policy LBD1.

Other considerations

14. While a prior notification application has been switched to a planning application to convert the barn, I have not been advised of its outcome. This limits any weight I can give this as a fall-back. The appellant draws my attention to an outline planning permission² for 5 houses outside the limits of built development, however, unlike the appeal site it is adjacent to the limits of built development and connected by roads with footways and lighting. The Council's considerations included it being viewed as limited infilling or alternatively as redevelopment of previously developed land with the removal of fencing, restoration of land and the removal of buildings as amounting to very special circumstances. The parallels between that case and the present appeal, which I have considered on its own merits and its different context, are limited.
15. At most I give limited weight to the other material considerations cited in support of the proposals, including that the proposal is intended as a self-build house, the supply of which the government seeks to increase through the Self-

² LPA Ref: 19/01586/OUT

build and Custom Housebuilding Act 2015. I acknowledge that the appeal concerns a revised scheme following pre-application consultation. I recognise the design efforts to reduce the mass of the building and I understand the flood risk constraints of the site. I have taken into account that prior approval was given for the residential use of the barn, though its larger replacement in this proposal limits the weight I can give it.

16. I note the allocation of land at Mascalls Farm for 300 dwellings though understand its development would not reduce the distance of the appeal site from the limits of built development. I have taken into account the strategic site to the north of the appeal site; however, this is in connection with the preparation of a new Local Plan which is at a very early stage. Because of the risk of changes to any potential allocations during the plan preparation process, and in accordance with paragraph 48 of the Framework, I give this very limited weight, at this stage.

Conclusion

17. While the proposed development would provide an additional house and bring with it economic and social benefits, it would be inappropriate development, which the Framework indicates is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It would also cause harm to the openness of the Green Belt, and it would not be in an appropriate location, having regard to the spatial strategy of the borough and the accessibility of the site to services and facilities. Substantial weight should be given to the harm to the Green Belt and very special circumstances will not exist unless this harm and any other are clearly outweighed by other considerations.
18. Despite having regard to all the considerations advanced, I consider that taken together, the factors cited in its favour do not clearly outweigh the harm the proposed development would cause. Accordingly, very special circumstances do not exist, and the proposal would conflict with the Framework and the development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR