



Appeal Decision

Site visit made on 26 November 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Appeal Ref: APP/H2265/W/19/3234301

Moonfield, The Street, Ryarsh, West Malling ME19 5LG

- 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 E Dennis against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/19/00570/FL, dated 6 March 2019, was refused by notice dated 2 May 2019.
 - The development proposed is a revision to the siting and design of a previously permitted new dwelling.
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Decision

1. The appeal is dismissed.

Background

2. Permission has been granted¹ for a two bedroom dwelling to replace a single storey barn on the site, within the garden of Moonfield. A subsequent permission² was approved to amend the design of the dwelling and increase the ridge height to incorporate rooms in the roof, add a dormer extension and relocate the parking. Neither of the two permissions have been implemented although they are both extant.
3. The proposal is to add two additional dormers to the front roof slope either side of a projecting two storey bay, increase the ridge height, and re-site the building closer to the front of the site.

Main Issues

4. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the character and appearance of the site and surrounding area;
 - If the proposal is inappropriate, whether any 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.

¹ TM/17/01104/FUL

² TM/18/00728/FL

Reasons

Whether inappropriate development

5. The site falls within the Green Belt. Policy CP3 of the Tonbridge and Malling Local Development Framework Core Strategy 2007 (CS) states that national Green Belt policy will be applied to land within the Green Belt.
6. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. One such exception set out in paragraph 145 g) of the Framework, and is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
7. The site is within an area of loose-knit ribbon development along The Street, and is separated from the built up area of the village of Ryarsh by open land. It has a rural character and I therefore concur with the view of the main parties that the site comprises garden land outside of a built up area, and therefore it falls within the definition of previously developed land in Annex 2 of the Framework.
8. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. The assessment of the impact on openness requires a judgement to be made, and there is no threshold or quantitative guidance in the Framework. The proposal would result in the removal of the existing single storey dilapidated barn and the remains of a tennis court, and replacement with a three bedroom house with accommodation within the roof and a basement. The existing barn is modest in scale, with a low asymmetrical pitched roof and is open fronted. The new dwelling would be substantially larger than the barn and thus in spatial terms results in a significant increase in built form on the site, in terms of footprint, volume and height.
9. Due to its small scale the barn has little visual impact on the site, while the new dwelling would have a significant height and bulk and would have a greater presence. The site is well screened from most public viewpoints, being sited within an area of lower ground so that it is surrounded by banks and the site boundaries are marked by vegetation. However, the bulk and height of the dwelling would be apparent in views into the site through the site access, and from the neighbouring property at Ryarsh House. In comparison therefore with the existing development, the proposal would have a greater impact on the openness of the Green Belt than the existing development, in both spatial and visual terms. I therefore conclude that the proposal would be inappropriate development in the Green Belt, as it would not meet any of the exceptions referred to in paragraph 145 of the Framework. It would result in an additional dwelling and would therefore lead to an encroachment into the countryside and would impact on the related Green Belt purpose.

Character and appearance

10. The site is within a rural area, in a ribbon of loose-knit development on The Street. Dwellings are generally set back from the road behind boundary

vegetation, giving the area a rural character. There is a variety of building styles in the area, including dormers and gables. Due to its topography and boundary screening the appeal site has limited visibility in the wider area. The existing barn on the site is modest in size and has a low pitched roof. As a result, even if the vegetation on the site frontage were to be cleared, it would have little impact on the street scene. By contrast, the appeal proposal would introduce a moderate-sized dwelling on the site. Due to its front dormers and a full height front projecting gable feature with large areas of glazing, it would be readily apparent on the site, with an overtly domestic and bulky appearance. Its bulk is accentuated by the first floor overhang to the side closest to the road and the front gable. As a result of its scale and design it would be visible through the opening into the site from The Street and would appear as a suburban building that detracts from the rural character of the area.

11. I appreciate that permission has already been granted for a new dwelling on the appeal site and this proposal results in a more symmetrical appearance to the front elevation than the second scheme. However, the dwelling would be closer to the road and would be bulkier with a more overtly domestic appearance than the previously approved schemes. I do not therefore find that the previous permissions indicate that this appeal should be allowed.
12. I have not had sight of the previously approved layout drawings but the appellant states that the area of hardstanding has been reduced in size and relocated. As a result, the visual impact of the driveway, hardstanding and parked cars would be lessened with the appeal scheme. I also note that a hedge is proposed which would separate the driveway from the new dwelling, thereby providing screening of the dwelling itself and the parking area from The Street. However, due to the scale and design of the dwelling, I do not find that these factors overcome the harm that would be caused.
13. The neighbouring dwellings either side are both set on higher land, and therefore the fact that the dwelling would be lower than them does not indicate that it would not be harmful to the character and appearance of the area.
14. I therefore find that the proposal would be moderately harmful to the character and appearance of the site and surrounding area. It would thus be in conflict with Policies CP1 and CP24 of the CS and Policy SQ1 of the Management Development and the Environment Development Plan Document 2010, insofar as they seek to ensure that new development results in a high quality environment and is well designed to respect the site and its surroundings. It would also be contrary to the guidance in the Framework.
15. While the Council has refused planning permission on other grounds, I am required to give great weight to conserving and enhancing the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty (AONB). Although the dwelling would be harmful to the character and appearance of the site and surrounding area, it is within a ribbon of development and would not affect the natural beauty of the wider countryside. I therefore concur with the Council's view that it would not be harmful to the AONB.

Other Considerations

16. The appellant has put forward a number of considerations to be weighed against the Green Belt harm.

17. There is a 'fallback' position in that there are two unimplemented but extant planning permissions for a new dwelling on the site, and there is a likelihood that one of them would be implemented if this appeal fails. As they would result in a dwelling on the site, they have a bearing on the conflict with the Green Belt purpose. However, I have found that this proposal would have a greater impact on the character and appearance of the site than the approved schemes as it would be larger with a bulkier and more imposing appearance and closer to The Street. In terms of the impact on the openness of the Green Belt, this proposal would have a greater spatial impact as a result of its increased volume and footprint. It would also result in a greater visual impact on openness as the front projecting gable with larger area of glazing would be readily apparent in views into the site from the access. I therefore give these permissions limited weight.
18. The appellant argues that by using the loft space to create extra accommodation there would be a reduced need for outbuildings when compared with the previous schemes. However, I have seen no evidence to support this assertion.
19. The appellant has provided an appeal decision³ for an extension that was allowed to a dwelling in the Green Belt and resulted in a significant cumulative increase in the size of the dwelling. However, extensions to dwellings under paragraph 145 c) do not require the consideration of the effect on openness in order to conclude whether they are inappropriate in the Green Belt. Moreover, while the Inspector found that the harm to openness was minimal, this was because the extension would be situated between two rear projections on the dwelling. I do not therefore find that it is directly comparable to this proposal for a new dwelling.
20. The parties agree that the Council cannot currently demonstrate a five year housing land supply. Paragraph 11 of the Framework states that where policies which are most important for determining the application are out of date, permission should be granted unless specific policies within the Framework provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
21. Notwithstanding the Council's lack of a five year housing land supply, the first step is to consider whether there are specific policies in the Framework that indicate that development should be restricted. Footnote 6 of the Framework gives examples of such policies, and includes "Green Belt". For the reasons already set out, the proposal would conflict with the Framework policy in relation to Green Belt. This provides a clear reason for refusing the appeal proposal. As such, the presumption in favour of sustainable development in paragraph 11 would not apply in these circumstances. Having regard to the Inspector's finding in relation to this matter in allowing an appeal⁴, the lack of a five year housing land supply can still be weighed against the harm to the Green Belt, on its own or in combination with other factors. I note that the Inspector found in that case that it was one significant factor to be weighed in the balance, but was unlikely on its own to clearly outweigh the harm to the Green Belt.

³ Ref APP/Y3615/W/18/3202309

⁴ Ref APP/H2265/W/18/3202040

22. In this case, the site is close to the centre of Ryarsh where there are some limited local facilities, and there is development taking place nearby that has already added to the size of the village. However, the proposal would provide only one dwelling, and would make a limited contribution to the supply of housing, notwithstanding the lack of a five year housing land supply. In any event, permission already exists for a new dwelling on the site, and I have seen no evidence that it is unlikely to be built in its approved form, if this appeal fails.

Green Belt Balance

23. 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. In addition, the proposal would cause a moderate loss to the openness of the Green Belt, and would be moderately harmful to the character and appearance of the area. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

24. I give limited weight to the extant permissions on the site, as the dwelling would be larger, with a greater impact on openness and on the character and appearance of the site. The assertion that the proposal would result in reduced demand for outbuildings attracts limited weight. The appeal decision referred to by the appellant carries limited weight as the circumstances are not comparable. I give limited weight to the contribution that the site would make to the supply of housing in the Borough, in a location close to the centre of the village with access to some facilities. Consequently, the substantial weight to be given to the Green Belt harm, and the moderate harm to the character and appearance of the area, are not clearly outweighed by other considerations. The very special circumstances necessary to justify the proposal do not, therefore, exist.

Conclusion

25. For the reasons given above, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR