
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/19/3235247

Land South West of 1-4 Dutt's Cottages, Teston Road, Offham, West Malling ME19 5NS

- 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 Joseph King against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/19/00775/FL, dated 28 March 2019, was refused by notice dated 31 May 2019.
 - The development proposed is demolition of existing building and construction of a new two bedroom bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal is inappropriate development in the Green Belt;
 - 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.

Reasons

Whether inappropriate development

3. The site falls within the Green Belt. Policy CP3 of the Tonbridge and Malling Local Development Framework Core Strategy 2007 states that national Green Belt policy will be applied to land within the Green Belt.
4. 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. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. Two such exceptions are:
 - e) limited infilling in villages; and

- g) 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.
5. The appeal site is a small parcel of land used as domestic garden accessed from a private lane which is also a public footpath and turns into an unmade track as it passes the appeal site. It is on the edge of the village of Offham, and is adjacent to built development. As a result of its location, it could reasonably be said to be part of the village. However, it is surrounded on three sides by open fields, and a dwelling on the site would not be infilling a gap in an otherwise built up area, but instead would appear as an incursion of built form into the countryside. It would not therefore represent limited infilling in a village, and does not fall within the exception set out in paragraph 145 e) of the Framework.
 6. In terms of the exception in paragraph 145 g) of the Framework, the parties agree that the site should be considered previously developed land. Consideration of the effect on openness has spatial and visual aspects. The site contains little in the way of permanent structures. The proposal would add a bungalow to the site, which would result in a large permanent structure and therefore would reduce the openness of the Green Belt in spatial terms when compared with the existing situation.
 7. The site is well screened by boundary trees and a fence alongside the access track, but the building would nonetheless have a visual impact on the openness of the site itself. Moreover, it would be apparent in views from outside the site, including through the access to the site, due to its height and scale. It would also introduce a more intensive use of the site, with the creation of parking and turning, and greater pressure for domestic paraphernalia within its curtilage. The proposal would therefore have a greater impact on the openness of the Green Belt than the existing development. The proposal would not meet the exception in paragraph 145 g) of the Framework.
 8. Accordingly, the proposal would be inappropriate development in the Green Belt. In addition, it would reduce the openness of the Green Belt. The development would also lead to an encroachment of built form into the countryside and would impact on the related Green Belt purpose.

Other considerations

9. The appellant has put forward considerations in favour of the proposal. The local authority is encouraging redevelopment of previously developed land, provided the character is respected. The proposal reflects the context of the surrounding area with no negative impact on neighbouring properties. It meets or exceeds minimum amenity standards and internal room sizes. It is in a residential area with adequate infrastructure and provides a dwelling in a location that has good accessibility to main line train services and bus routes. The Council is not able to demonstrate a five year housing land supply, and as a result the presumption in favour of sustainable development should apply.
10. 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.

11. 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.

Green Belt Balance and Conclusion

12. 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 harm to the openness of the Green Belt and would conflict with one of the Green Belt purposes. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
13. The lack of identified harm to the character of the area, the living conditions of neighbouring occupiers, the adequacy of local infrastructure, and the compliance with amenity and internal living standards, are all neutral factors that do not weigh in favour of the proposal. I give limited weight to the reuse of previously developed land which has already been taken into consideration in terms of paragraph 145 g), and to the provision of a dwelling in a location with public transport provision. Consequently, the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations. The very special circumstances necessary to justify the proposal do not, therefore exist.
14. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR