



Appeal Decision

Site visit made on 26 November 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2019

Appeal Ref: APP/C3620/W/19/3234825

Halesbridge Farm, Blanks Lane, Newdigate RH5 5ED

- 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 Halesbridge Developments Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2019/0089/PLA, dated 16 January 2019, was refused by notice dated 14 March 2019.
 - The development proposed is the demolition of an existing building; the erection of 2no. dwellings and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has requested that I accept drawing number 310 (Revision A) of 30 July 2019 in my determination of this appeal. The drawing labels an area of land around the proposed gardens, for which no use is specified on the original plan, as "land to be returned to open countryside".
3. In considering whether to accept the amended drawing I have had regard to the "Wheatcroft Principles". The original plan number 310 does not confirm the proposed use of the area concerned, and indeed it already appears to be separated from the adjacent residential garden by landscaping. Its labelling as an area which would not form formal garden therefore reflects the apparent intention of the original proposal. The alterations proposed are therefore not substantial, and the development is not so changed that to accept the revised drawing would deprive those who should have been consulted of the opportunity of such consultation. Accordingly, I have formally considered the amended drawing in my determination of this appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the revised National Planning Policy Framework;
 - The effect on the openness of the Green Belt; and

- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the scheme is inappropriate development within the Green Belt

5. 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. The Framework 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 paragraphs 145-146.
6. The exception within paragraph 145 g) allows for limited infilling or the partial or complete redevelopment of previously developed land ("PDL"). The proposal must additionally, in this case, not have a greater impact on the openness of the Green Belt than the existing development.
7. The appeal site contains a barn and surrounding areas of hardstanding and overgrown ground. Both parties consider that the barn and its immediately surrounding area of hardstanding form PDL according to the definition within the Framework. This states that PDL is land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. Land that is or was last occupied by agricultural or forestry buildings does not form PDL.
8. The Council considers that the overgrown area does not comprise PDL, citing the presence of demolished agricultural buildings on the land. The appellant accepts that the overgrown area contains hardstanding and former agricultural buildings. The appellant seeks the exclusion of the majority of the overgrown area from the site. They rely on their contention that the remaining area forms PDL in support of the submission that the Framework exception is met.
9. However, whilst I acknowledge the intention, according to the revised plan, for much of the overgrown area to comprise an area of informal countryside, this revision does not remove the area concerned from the appeal site. Moreover, there is no substantive indication before me that the parties have agreed any reduction in the site area. Thus, it is necessary for me to assess whether the whole site forms PDL.
10. The overgrown area comprised hardstanding, rubble and undergrowth on the day of my visit. The area evidently formerly held the agricultural buildings and their associated curtilage. There is no substantive evidence that any intervening change of use has occurred since their agricultural use and indeed the appellant acknowledges that they were former agricultural buildings. The comments of the Council on previous proposals¹ in the vicinity concerning a lack of use of the appeal barn for agriculture and a perceived lack of group unity between the buildings do not provide significant evidence on the use of the agricultural buildings in question at those times.

¹ Local Planning Authority Refs: MO/2003/0794 and MO/2015/0771

11. The Council has recently granted permission² for the conversion of the barn to dwellings. Its assessment on the matter concluded that the barn was PDL. This accords with the subsequent assessment of the appeal site which is set out in its statement of case. The approved proposal was separately found not to be inappropriate development in the Green Belt as it fell within the scope of the exception at paragraph 146d) of the Framework concerning the re-use of buildings.
12. As the appeal proposes the construction of new buildings, it is materially different from the recent approval and thus it falls to be considered according to a different exception within the Framework. Furthermore, there is nothing before me to suggest that the approved use of associated land behind the dwellings would harm openness to a greater degree than the use proposed by the appeal, particularly given the extremely limited visibility of this area from the highway. Thus, I attach only limited weight to the relevance of the recent permission in determining the appeal.
13. In light of the above, I conclude that the overgrown area is or was last occupied by agricultural buildings and consequently that it does not form PDL.
14. The appellant draws my attention to an appeal decision³ which granted permission for the development of a site which was subject to a combination of horticultural and landscaping uses. The appeal considered the effect of a judgment⁴ on the proposal concerned. The judgment found that where land is occupied by a permanent structure, it would not be PDL if that permanent structure is (lawfully and solely) an agricultural or forestry building. It further concluded that *the presence of some previously developed land within an application site does not make the whole site previously developed land...., applying the definition in the NPPF. The NPPF itself draws a limit on whether a site is previously developed land by reference to the curtilage of the buildings.* The definition of PDL in the current version of the Framework is very similar to that contained in the version which was in force at the time of the other appeal decision.
15. Whilst I acknowledge that the Inspector for the previous appeal concluded that the site concerned contained PDL, minimal further details of the proposal in question are before me. I note, however, that several non-agricultural activities were found to have taken place at the site in the period since its last use for horticultural purposes. I have not found that any intervening change of use occurred since the agricultural use of the buildings in this case. Thus, I cannot be certain that the other appeal proposal is directly comparable to that currently before me. Accordingly, I attach only limited weight to the relevance of the appeal decision concerned in determining this appeal.
16. Moreover, the PDL which is formed by the barn and its immediate curtilage comprises only part of the overall site. The remainder, which I have concluded does not comprise PDL, forms a substantial part of the site. Thus, notwithstanding that some parts of it may comprise PDL, given that a significant part of the site is not so, I conclude that the scheme cannot be considered to be limited infilling or the partial or complete redevelopment of a previously developed site in accordance with the exception within paragraph

² Local Planning Authority Ref: MO/2019/1264

³ APP/R3650/A/14/2223115

⁴ R (Lee Valley Regional Park Authority) v Broxbourne Borough Council [2015] EWHC 185 (Admin)

145g) of the Framework. The findings of the *Lee Valley* judgment extracted above support my conclusions on the matter.

17. Nevertheless, as the proposal does not fall within the scope of the exceptions set out in paragraphs 145 and 146 of the Framework, it is inappropriate development. Such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In this regard, the proposal conflicts with the Framework. Although based on previous national policy guidance, Policy CS1 of the Mole Valley Core Strategy (2009) seeks to ensure that such guidance is applied. The policy supports my conclusion that the proposal would be inappropriate development. I attach substantial weight to the harm arising due to the inappropriate nature of the development.

The effect on openness

18. The assessment of the impact of the proposal on the openness of the Green Belt has both a visual and a spatial aspect.
19. The existing barn forms a substantial structure within views from the highway. Its roof comprises the majority of the visible built form at the site. It is higher than intervening development in views from the highway access. As it lies to the rear of the developed area it cuts off views through the area and over the rear of the appeal site. However, the openness which would otherwise be available over approximately half of the area occupied by the existing barn is already limited by the presence of intervening development.
20. The appeal proposes the construction of two dwellings which would be separated by a gap, which would contain fencing. Whilst one dwelling would stand within only part of the barn's footprint, the proposal would extend built form across the site by a moderate degree by the construction of the second dwelling. However, the height of the dwellings would be slightly less than that of the barn. Furthermore, openness is already limited by the presence of intervening development at the site in views from the highway access and other available glimpses from the road. The extension of built form of a slightly greater height than intervening development would additionally be compensated for by the provision of the gap between the dwellings. Thus, the proposal's impact on openness in visual terms would be neutral.
21. The existing barn has a footprint of approximately 287 metres² and a volume of approximately 1518 metres³. The proposed dwellings have a combined footprint of approximately 244 metres² and volume of approximately 1420 metres³. The proposed reductions in the footprint and volume occupied by built form at the site would therefore have a modest positive effect on the spatial aspect of openness.

Other matters

22. The site lies in the vicinity of Halesbridge Farmhouse and Halesbridge Farm, which are Grade II listed buildings. I have a statutory duty, under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the setting of the listed buildings.
23. The listed buildings are a farmhouse and converted barn. They lie forward of the appeal building.

24. The listed buildings and their surrounding complex have the appearance of a former farmstead. Their setting contributes a well treed and rural quality to the significance of the listed buildings. A number of structures lie between the listed buildings and the appeal site, including a former barn with a substantial footprint. The area additionally accommodates a relatively modern dwelling. The appeal barn has a substantial presence within views of the area. As a result, views of the listed buildings already include significant built form, some of which has a relatively contemporary and domestic appearance.
25. The appeal building lies to the rear of the complex of buildings. Whilst the scheme would lengthen built form within the backdrop to the listed buildings, the proposed dwellings would be slightly lower than the existing barn, and the separation between them would allow for some views out to natural form, which would enhance their rural setting. The complex already accommodates a number of dwellings and thus the proposed residential use would not visually compete with the heritage assets.
26. I therefore conclude that the effect of the appeal proposal on the visual aspects of the contribution which the setting makes to the significance of the listed buildings is neutral. As a result, the scheme complies with the aims of the Framework with regard to the conservation of the historic environment and preserves the particular significance of the heritage assets.

Other considerations and the Green Belt balance

27. I have found that the appeal proposal is inappropriate development in the terms set out in the Framework. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
28. The appellant submits that the development would have an acceptable effect on the living conditions of neighbouring occupiers. It is additionally contended that the site carries acceptable flood and contamination risks and that the proposal does not harm highway safety. If I were to accept that this were the case, these would be neutral matters to which I would not attach weight.
29. The provision of two dwellings would make a modest contribution to housing supply. I have also found above that the proposal would have a modest positive effect on the spatial aspect of openness. These factors weigh in favour of the scheme.
30. The appearance of the barn has a relatively neutral effect on the area, so that its replacement by dwellings does not reduce any particular harm in that regard. Furthermore, any additional remaining buildings at the site and items stored in connection with the furniture business are so well screened as to cause no significant harm to the appearance of the area. Landscaping at the site would have only minimal visibility from the public realm due to its location behind the dwellings. Thus, I consider that the scheme would have only a minimal beneficial effect on the area's appearance.
31. Taken together, I find that, cumulatively, the other considerations in this case do not clearly outweigh the Green Belt harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

32. The appellant submits that the Council cannot demonstrate a 5 year housing land supply, providing evidence⁵ that suggests a 2.63 year supply. Footnote 6 to paragraph 11d) of the Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. This includes Framework policies that protect the Green Belt. As the proposal would be inappropriate development and no very special circumstances exist, there is a clear reason for refusing the development. Accordingly, the "tilted balance" of paragraph 11 is not engaged in this case.
33. In determining this appeal, I have taken account of appeal decisions⁶ cited by the appellant in support of their contention that substantial weight should be attached to smaller scale housing development in an authority which cannot demonstrate a 5 year housing land supply. However, these other appeal decisions found that the proposals in question were not inappropriate development in the Green Belt. Therefore, in these cases, the application of policies in the Framework that protect areas or assets of particular importance did not provide a clear reason for refusing the development proposed. Thus, the Green Belt balance was materially different to that of the current appeal proposal. As such I attach only minimal weight to the relevance of the other appeal decisions in determining this appeal.
34. For the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR

⁵ Mole Valley Five Year Housing Land Supply Annual Review, April 2019-2024

⁶ APP/G5180/W/18/3206947 and APP/G5180/Y/18/3206949