
Appeal Decision

Site visit made on 25 February 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2020

Appeal Ref: APP/R0335/W/19/3234871

North Street Garage, North Street, Winkfield, Windsor SL4 4TF

- 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 RW Rowsell Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 19/00036/FUL, dated 10 January 2019, was refused by notice dated 25 June 2019.
 - The development proposed is demolition of existing garage and removal of hardstanding, and the erection of 2no. detached dwellings with associated access, parking, turning area and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although not referred to in the decision notice, Policy GB3 of the Bracknell Forest Borough Local Plan 2002 (LP) is referred to by both main parties in their submissions. Therefore, there would be no injustice were I to take this into account in my reasoning.
3. I have taken the description of development in the banner heading above from the application form. While different to that on the decision notice, no indication that a change was agreed has been provided.

Main Issues

4. 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;
 - The effect of the proposal on the character and appearance of the area; 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.

Application for costs

5. An application for costs was made by Bracknell Forest Borough Council against RW Rowsell Ltd. This application is the subject of a separate Decision.

Reasons

Whether Inappropriate Development

6. 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.
7. One exception is limited infilling in villages although the Framework does not provide a definition of this term. 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.
8. The Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.
9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
10. Policy GB1 of the LP states that new buildings will only be approved in the Green Belt in very special circumstances subject to certain criterion and for certain purposes. Policy GB3 relates more specifically to development within Green Belt Villages. The supporting text comments that there is a presumption against allowing any building for new residential development, even inside a Green Belt Village. The sole exception is in the case of infilling. Infilling is defined as building on undeveloped single plots of land for residential purposes which closes existing small gaps in an otherwise built up frontage.
11. Policy CS9 of the Bracknell Forest Borough Local Development Framework Core Strategy (CS) aims to protect land outside settlements and protect the Green Belt from inappropriate development.
12. The development plan policies do not include exceptions to inappropriate development for the redevelopment of previously developed land and include additional requirements to the Framework. The LP and CS predate the publication of the Framework and the relevant policies are not entirely consistent with the Framework. I give this conflict considerable weight.
13. Nevertheless, even were I to agree with the appellant that the site falls within the Green Belt Village and settlement boundary, to accord with the exceptions

of the development plan and Framework requires a judgement as to whether the proposal was infill.

14. The site lies at the end of a short line of houses with an area of mature landscaping to the other side and behind it. While there are a range of properties opposite the site, the scheme would not infill a small gap in a continuous built up frontage but extend the ribbon development. Given the distance between the site and the next building to one side I consider that the proposal would not be infill development.
15. Even if I were to consider the whole of the site to be previously developed land, the next consideration is whether the development would have a greater impact on the openness of the Green Belt than the existing development. The Framework indicates that openness is an essential characteristic of the Green Belt. Case law has established that openness has a visual aspect and spatial aspect.
16. The existing building is located centrally in the site, with large gaps to all sides. There is a large area of hardstanding at the site that could, and from the evidence before me, has previously accommodated a number of vehicles. Some of the parking and storage areas are clearly visible from certain parts of the street and I am not aware of any restrictions on the number or location of vehicles that could be parked at the site.
17. Nonetheless, from my site visit I saw that while views beyond the site were reduced due to the mature trees around the site and the site itself is not undeveloped, the outdoor area within the site was open in character and largely absent of built form. The parking of vehicles and outside storage would be temporary and there is no clear evidence to suggest that they would be at the height of the proposed dwellings. Similarly, the railings at the front of the site and boundary treatments are considerably lower than the proposed buildings. Moreover, no information has been provided of the fuel tanks.
18. Planning Policy Guidance states that the degree of activity likely to be generated, such as traffic generation, can be taken into account when considering the potential impact of development on the openness of the Green Belt. The commercial use of the site would be likely to result in greater traffic movements and use by larger vehicles than the dwellings. Notwithstanding this, these are largely transient features and activities.
19. In contrast, the proposed dwellings would be permanent and rather than breaking up the built form at the site would fill much of the plot width. This and their height would limit views to the mature trees beyond the site boundaries. Using the appellant's figures the volume of the existing built form is approximately 700m³, whereas the proposed development would be 1978m³. Therefore, while a considerable amount of hardstanding would be removed, the volume, height and footprint of the proposed dwellings would significantly exceed that of the existing building on site. Even with the proposed landscaping the properties would be clearly visible in the streetscene.
20. As such, whether or not the existing use would be considered as inappropriate development, the appeal scheme would have a greater impact on the openness of the Green Belt than the existing development in spatial and visual terms. 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.

21. Consequently, when judged against the wording of national and local policy the proposal would not represent limited infilling within a village or any of the Frameworks' other exceptions and would thus be inappropriate development in the Green Belt which, according to the Framework, is harmful by definition. It would conflict with Policies GB1 and GB3 of the LP and CS9 of the CS and the Framework. The proposal would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

Character and Appearance

22. There are a mix of uses in the street. However, the predominant character of the area is one of ribbon residential development. Below ground tanks do not visually detract from the character and appearance of the area. Nonetheless, the large open area of hardstanding, along with the various advertisements, are visible from the street. These give the site an obviously commercial appearance.
23. The trees to the rear and one side of the appeal site are protected by a Tree Preservation Order (TPO). These features contribute positively to the verdant character of the area and aid in screening the residential properties to the rear of the site. Many are tall, mature features that are located on the bank that rises from the boundary of the appeal site.
24. The properties would be set in from the side boundaries of the site, in many places further from the adjacent trees than the existing areas of hardstanding. Moreover, services could be located away from landscape features at the site. Nonetheless, having visited the site and stood within the area of the proposed rear gardens, the trees would have an enclosing effect. The appellant has not sought to dispute that these trees have growth potential. Therefore, the scheme would be likely to result in occupiers of the proposed properties seeking to carry out works to the trees.
25. A reasoned approach to pruning has been suggested in compliance with the relevant standards. Furthermore, being subject to a TPO permission would be required for such works. Nonetheless, there is limited information before me of what this would entail or the effect it would have on the trees. Future occupants may have differing likes and dislikes in terms of sun and shading and would be aware of the presence of the trees. Nevertheless, the Council would need to consider the benefits that pruning, or removal would bring about. A reduction in the tree cover around the site would erode its green and woodland setting.
26. A TPO covers the Willow tree within the site that given its size is a prominent feature, visible from the street and nearby properties. There is disagreement between the main parties over the categorisation of the tree. I saw that there were signs of decay at the base of the tree. While the AIA¹ indicates this can lead to a quick decline, it was still considered to be of moderate landscape value. Furthermore, the AIA gives the expected remaining contribution to be 20+ years. While I acknowledge concerns from the occupier of the adjacent property with regard of the impact of the trees on their property, I have limited information in regard to this matter.

¹ Arboricultural Impact Assessment and Method Statement

27. Compensatory planting is proposed to the front of the site. There is no firm evidence before me to indicate that subject to certain controls over construction methods that this would be unsuccessful. Nonetheless, the loss of a tree that contributes positively to the appearance of the area would erode its verdant character.
28. While it is stated that off-site tree planting would be secured through a Section 106 Agreement, one has not been provided. No alternative mechanism to secure such provision has been put to me. Therefore, I cannot be sure such a scheme would be appropriate or delivered.
29. The proposed properties would be set back from the road with mature landscaping to many boundaries that would partly screen the proposed dwellings from views further along the street. Where they would be prominent the properties would be viewed with the dwellings to one side and opposite. Moreover, the areas of hardstanding and potential for parked vehicles at the site would be reduced with landscaping to help screen them. The appeal scheme would also be likely to reduce the amount of traffic in the area.
30. The proposed dwellings would be larger than the adjacent bungalow and the existing building on the site. Notwithstanding this, they would be of a similar design and size to others nearby. As such, the properties would not be out of keeping with the streetscene. Moreover, the scheme would reflect the layout and building line of nearby properties.
31. The scheme would lead to enhancements in some ways with the introduction of a more in keeping use and built form. Notwithstanding this, the proposed and potential future effects to trees mean it would harm the character and appearance of the area. As such, it would fail to accord with Policy CS7 of the CS and Policies EN1 and EN20 of the LP. These, amongst other things, seek to retain beneficial landscape features, require development to be sympathetic to the local character and environment and enhance the landscape. It would also fail to accord with the Framework where it states developments should be sympathetic to local character.

Other Considerations

32. The Framework indicates that the presumption in favour of sustainable development 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 an area/asset and the proposal is contrary to the relevant policies of the Framework in regard to these.
33. However, the Framework seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. There is also support for the re-use of previously developed land. The proposal would contribute towards the housing supply and mix. Although, being for only 2 dwellings such benefits would be minor and increased biodiversity would also be limited. I therefore give these matters little weight.
34. Viability information comparing the proposed scheme to that previously approved at the site has been provided. Nevertheless, there is limited

information with regard to how the inputs, valuations and ceiling heights were arrived at. Therefore, I give this limited weight.

35. There are no refusal reasons other than those in the main issues above. As with the land ownership query raised by the Council, as I am dismissing the appeal there is no need for me to consider these other factors in detail. In any event, the absence of other harm is a neutral factor.
36. It is unclear what, if any, contamination is present at the site. The scheme would be likely to lead to a reduction in traffic flows from the site and therefore the associated noise, disturbance and pollution. I note comments from nearby residents regarding issues at the site when the business was in operation. However, due to the scale of the existing development, and the evidence before me, I afford this matter limited weight.
37. My attention has been drawn to a number of appeal decisions, decisions by the Council and the presence of development such as a caravan site and bus depot in the area. While there may be some elements that are comparable to the appeal scheme, I do not have full details of the considerations before the decision makers at the time of those decisions. Furthermore, none were directly comparable to the scheme before me in terms of location and design. Previous applications at the site related to development of a different size and layout. Therefore, they would have had different impacts on the Green Belt and would be materially different to the proposal before me.
38. The conduct of the Council in its handling of applications at the site has been raised. However, I have assessed the appeal on its planning merits based on all the evidence before me and found there would be harm.
39. I note comments in favour of the scheme from local residents and consultee comments on both the application and appeal. Notwithstanding this, a lack of opposition or support for a proposal in itself is not a ground for refusing or granting planning permission unless founded upon valid planning reasons.

Conclusion

40. 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 the character and appearance of the area. The other considerations in this case do not clearly outweigh the harm that I have identified.
41. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would be contrary to Policies GB1, GB3, EN1 and EN20 of the LP and Policies CS 7 and CS9 of the CS and the Framework.
42. Therefore, for the reasons given, and having taken into account all matters raised, I conclude that the appeal is dismissed.

Stuart Willis

INSPECTOR