



Appeal Decision

Site visit made on 16 March 2020

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2020

Appeal Ref: APP/R3650/W/19/3231227

Tilford Green Nursery, Tilford Road, Tilford, Farnham, Surrey GU10 2BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr David Burch against the decision of Waverley Borough Council.
 - The application Ref WA/2018/1796, dated 9 October 2018, was refused by notice dated 28 February 2019.
 - The development proposed is erection of 4 dwellings with detached garages and associated work following demolition of existing structures (revision of WA/2017/2400) at Land at Tilford Green Nursery, Tilford Road, Tilford.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development provided in the application form has been amended in subsequent documents. I have adopted the description of development provided in the appellant's appeal form, as it accurately and concisely reflects the proposal before me.
3. The appeal site has been subject to a number of planning applications for residential development, which have been refused by the Council. These include a scheme for the erection of 10 bungalows, which was subject to a dismissed appeal in 2016. Whilst I have had regard to this appeal decision, I note that this was in respect of a different proposal for a larger number of dwellings, which was assessed prior to the adoption of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites¹ (LPP1).
4. The appellant has submitted a signed and dated Unilateral Undertaking (UU), pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). I shall return to this later in my decision.

Main Issues

5. The main issues are:
 - Whether the proposal would constitute inappropriate development in the Metropolitan Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;

¹ Adopted in February 2018.

- The effect on the openness of the Green Belt and the purposes of including land within it;
- The effect of the proposal on the character and appearance of the surrounding area, including the Surrey Hills Area of Outstanding Natural Beauty (AONB) and the Area of Great Landscape Value (AGLV);
- Whether the proposal would provide a suitable housing mix;
- Whether the proposal would make adequate provision towards affordable housing;
- Whether the proposal would be suitably located, having regard to national and local planning policies which seek to steer new development away from areas with the highest risk of flooding; and
- If found to be inappropriate development, whether 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 the proposal;

Reasons

Whether inappropriate development

6. The appeal site is a former commercial conifer nursery containing the remains of disused buildings, including a number of polytunnels, glasshouses and timber outbuildings, which all are in a very dilapidated condition. Although it is located on the edge of the small village of Tilford, the site has a secluded feel, by virtue of the fact that it is largely screened by mature conifers planted along most of its boundaries and extends into a wooded area. Within the site however, many of the trees have been removed, which give it a more open character.
7. The site lies within the Metropolitan Green Belt. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In accordance with the Framework, local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt, except in a limited number of circumstances, which are listed within paragraph 145. These notably include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use.
8. Annex 2 to 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. Although there are several buildings on the appeal site, the submitted evidence indicates that these would have been last used in connection with the former nursery. Horticulture falls within the definition of agriculture, which is excluded from the definition of previously developed land included within the Framework.
9. The appeal site does not therefore constitute previously developed land and the exception set by paragraph 145 g) of the Framework does not apply to the appeal site. Consequently, the proposal would represent inappropriate

development in the Green Belt. It would thus fail to accord with LPP1 Policy RE2, which seeks to protect the Metropolitan Green Belt against inappropriate development, and the Framework.

Openness and Green Belt purposes

10. As set out in paragraph 133 of the Framework, the essential characteristics of the Green Belt are their openness and their permanence. The appeal site is screened to a large extent by existing landscaping and therefore, views into the site from public vantage points are presently limited. However, I have no guarantee that the screening provided by the mature trees situated on the eastern boundary of the site would be retained in perpetuity or replaced if they had to be felled. In the absence of the trees, the visual effect of the proposal would be significant.
11. The appeal site lies outside the settlement of Tilford and forms part of the open countryside. The volume of some of the existing buildings, by reason of their dilapidated condition, is no longer readily apparent within the site. This would contrast with the appeal scheme, as the proposed dwellings and their associated garages would, individually, appear more substantial in scale and prominence than the existing structures. As a result, the appeal scheme would reduce the openness of the Green Belt in spatial terms and lead to the encroachment of development into the open countryside, contrary to one of the five purposes of Green Belt policy, as set out in paragraph 134 of the Framework.

Character and appearance

12. The appeal site lies within the Surrey Hills AONB and an AGLV. It forms part of an attractive landscape, which notably comprises small fields interspersed with woodland areas. In accordance with paragraph 172 of the Framework, great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
13. Despite their physical condition, the remaining structures reflect the previous horticultural use of the site and therefore fit within their rural surroundings. The properties have been individually designed, and the architectural detailing reflects the local vernacular. Additional landscaping would assist further to soften the impact of the proposal. However, whilst the density on the site would remain low, the new dwellings would be of a similar size and style and would be accessed by a long and overly engineered private road, which would give the development the appearance of an exclusive housing estate and in that regard would appear at odds with its immediate surroundings. The development would suburbanise the site, thus eroding the rural character and appearance of the locality, and the landscape qualities of this sensitive area.
14. For the foregoing reasons, I conclude that the proposal would have a detrimental effect on the rural character and appearance of the area, by failing to conserve the landscape and scenic beauty of the Surrey Hills AONB and the AGLV, contrary to the Framework. It would also not accord with LPP1 Policy RE3 and Policy D1 of the Waverley Borough Local Plan² (LP). Amongst other things, these policies require development proposals to respect and where

² Adopted in April 2002.

appropriate, enhance the distinctive character of the landscape in which they are located. Additionally, the proposal would conflict with the design aims of LPP1 Policy TD1 and LP Policy D4.

Housing mix

15. LPP1 Policy AHN3 requires residential development proposals to make provision for an appropriate range of different types and sizes of housing to meet the needs of the community, by relying on the most up to date evidence contained within the West Surrey Strategic Housing Market Assessment (SHMA). Although the small scale of the development makes it difficult to reflect a suitable range of housing types and sizes, the proposed scheme, which would comprise the construction of two four-bedroom dwellings and two five-bedroom dwellings, would be at odds with the indicative housing mix identified by the West Surrey SHMA 2015. Consequently, the proposal would fail to provide a suitable housing mix, and would therefore conflict with LPP1 Policy AHN3 and paragraph 61 of the Framework.

Affordable housing

16. LPP1 Policy AHN1 requires residential developments with a maximum combined gross floorspace of more than 1000 square metres such as the proposal to provide a minimum of 30% affordable housing. Policy AHN1 adds that in respect of developments in rural areas where the net number of dwellings proposed is fewer than 11 units, this requirement can be fulfilled by providing a financial contribution towards affordable housing.
17. The appellant has submitted a signed and dated UU, which includes a copy of the calculation sheet detailing the level of contribution required as part of the development. However, the figure has been omitted from the Schedule included within the Planning Obligation and the relevant plans have not been attached. The submitted UU is therefore incomplete in its present form and cannot be considered legally sound.
18. As I intend to dismiss the appeal on other substantive grounds, I have not pursued this matter further with the main parties. Nevertheless, in the absence of a duly completed planning obligation, the proposal would fail to make adequate provision for affordable housing. It would therefore conflict with LPP1 Policy AHN1, but also the Framework, which requires affordable housing to be provided where a need for it is identified.
19. The appellant has also suggested that this matter could be resolved by the imposition of a planning condition. However, the Planning Practice Guidance³ (the PPG) states that conditions requiring planning obligations are normally only considered appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. The appeal scheme does not fall within this category.

Flood risk

20. The principal flood risk in the area arises from the River Wey, which lies to the north and west of the appeal site. The majority of the site lies within Flood Zone 2, and therefore has between a 1 in 100 and 1 in 1,000 annual probability

³ Paragraph: 010 Reference ID: 21a-010-20140306.

of river flooding. Parts of the site, along its northern and western boundaries, lie within Flood Zone 3, where there is a 1 in 100 or greater annual probability of river flooding.

21. The proposed development would be located within Flood Zone 2, which places this more vulnerable development at a medium risk of flooding. In accordance with national planning policy and guidance, proposals should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This requires a sequential approach being followed to steer new development to areas with the lowest probability of flooding. Only where there are no reasonably available sites in Flood Zone 1 should reasonably available sites in Flood Zone 2 be considered. The PPG⁴ states that developers should justify with evidence to the Local Planning Authority what area of search has been used when making the application.
22. The appellant's Sequential Test carried out by Argyll Environmental⁵ has had regard to a number of allocated development sites included within the Land Availability Assessment, as well as unallocated sites. The Sequential Test concludes that there are no sequentially preferable sites to the appeal premises, although little information has been provided by the appellant to justify the extent of the area of search which, I understand, has been restricted to Tilford.
23. The Council have however referred to two sites which are located within Flood Zone 1. One of these sites, which benefits from planning permission⁶ for the provision of residential development, is currently under construction and is therefore no longer available. The other site is located approximately 6.1km from the appeal site and benefits from an extant consent⁷ for the conversion of existing barns into dwellings. As it lies within Flood Zone 1, this site is clearly sequentially preferable to the appeal site. This indicates that dwellings could be accommodated on a reasonably available site located in a flood zone with a lower probability of flooding than the appeal site. Accordingly, I find that the appeal proposal does not pass the Sequential Test.
24. The appellant's submissions, which include a Flood Risk Assessment⁸ (FRA), recommend a number of measures to be incorporated to ensure that the proposed dwellings are not affected by potential flooding events. Access to and from the site could be restricted during flood events, which would make it more difficult for future occupiers to access their properties, thus causing potential disruptions to their living conditions. To address this issue, the FRA notably recommends that the site owner subscribes to the Environment Agency's (EA) Flood Warning Service which should be available to all users, and refers to the preparation of a detailed evacuation plan, although little information has been provided in that regard. However, they do not address the Framework's clear objective which seeks to avoid such developments in areas at risk of flooding.
25. My attention has been drawn to photographs of a flood event, which appears to have severely affected Tilford in 1968. Whilst the appeal site may not have been flooded in 1968, there is limited evidence before me demonstrating that

⁴ Paragraph: 034 Reference ID: 7-034-20140306.

⁵ Report Reference AEL-4491-FRA-947602, dated 26 July 2018.

⁶ Local Planning Authority Reference WA/2015/1019.

⁷ Local Planning Authority Reference WA/2018/0453.

⁸ Report Reference AEL-4491-FRA-944600, dated 18 June 2018.

the proposed dwellings would be made safe for their lifetime despite their location without increasing flood risk elsewhere. Additionally, I have not been presented with substantive evidence from the EA suggesting that the flood zone classification should be altered in this location. For the purposes of this appeal, I must give due consideration to the fact that the site falls within Flood Zones 2 and 3, which are areas at risk of flooding requiring a Sequential Test to be passed.

26. Having regard to the available information, the appeal scheme would fail to pass the Sequential Test in relation to development in areas at risk of flooding. For the reasons detailed above, it cannot be ruled out that the proposal could not be located in an area at lower risk of flooding. Additionally, there is no certainty that safe access and egress to the site could be achieved. Consequently, the development proposal would fail to accord with LPP1 Policies CC1 and CC4 which, amongst other things, seek to reduce the overall and local risk of flooding in the Borough. It would also conflict with the Framework and national planning guidance, in respect of the approach to development in areas at risk of flooding.

Other considerations

27. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances. Paragraph 144 adds that 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. In this regard, several other considerations have been referred to my attention.
28. The appellant argues that residential development would be less disruptive to the area than other commercial activities, which could be pursued on the appeal site. It is accepted that the use of the site as a commercial nursery could be re-instated, and this would be consistent with the rural character of the area. My attention has also been drawn to the permitted development rights which would notably enable the appellant to change the use of the premises to storage use.
29. The Council has however confirmed that there is an Article 4 direction in place in the area, which has resulted in the removal of permitted development rights in respect of Parts 4 and 5 of the Town and Country Planning (England) General Permitted Development Order 2015 (as amended). Additionally, I have not been provided with any substantive evidence to indicate that there is a greater than theoretical possibility that the alleged fallback position would be implemented, should this appeal be dismissed. Therefore, I can only ascribe very limited weight to the purported fallback position.
30. Part of the appeal site lies within the Tilford Conservation Area, but also within the setting of the Malt House and the Tilford Institute, which are both Grade II Listed Buildings. No concerns have been raised by the Council regarding the effect of the proposal on these designated heritage assets. Having regard to the evidence before me, I am satisfied that the proposal would preserve the character and appearance of the Tilford Conservation Area, but also the significance of these Grade II Listed Buildings and their setting. The absence of harm in respect of these designated heritage assets would hold a neutral impact in the overall balance.

Other Matters

31. The Council's decision for refusal refers to the lack of appropriate legal agreement to secure appropriate planning infrastructure contributions towards highways, education and leisure. Since the determination of the planning application, the Community Infrastructure Levy (CIL) Charging Schedule adopted by the Council has come into effect. Consequently, this negates the need for these planning infrastructure contributions to be secured by way of a planning obligation, as they could be appropriately collected through the CIL.
32. The appeal site lies within proximity to the Wealden Heaths I Special Protection Area and the Wealden Heaths I Special Area of Conservation. By reason of the availability of alternative recreational opportunities in the area, the Council is satisfied that the proposed development would not be likely to have, either individually or in combination with other plans or projects, a significant effect on the integrity of these sensitive areas. Limited information has been submitted to substantiate this assessment. As this appeal is being dismissed on other substantive grounds, this is however not a matter which needs to be considered further here.

Planning Balance

33. The appeal proposal would constitute inappropriate development in the Green Belt and would reduce openness. The proposal would also conflict with the Green Belt purpose of safeguarding the countryside from encroachment. I ascribe substantial weight to the detrimental effect which the development would have on to the Green Belt. Additionally, I afford great weight to the harm which the appeal scheme would cause to the landscape and scenic beauty of the Surrey Hills AONB and the AGLV. These considerations, as well as issues in respect of affordable housing, housing mix and flooding, weigh heavily against the development.
34. As noted above, the lack of harm to designated heritage assets is a neutral factor which, in the overall planning balance, would weigh neither for nor against the proposal. I give very limited weight to the fallback position presented by the appellant, and the modest contribution which the proposal would make to housing supply and choice. For the reasons given above, the harm caused by the proposal would not be clearly outweighed by the other considerations advanced in support of the development, whether taken individually or cumulatively. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

35. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR