
Appeal Decision

Site visit made on 19 May 2020

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 1st June 2020

Appeal Ref: APP/A1910/W/19/3240367

The Old Stables, Croft Lane, Chipperfield WD4 9DX

- 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 and Mrs Holdsworth against the decision of Dacorum Borough Council.
 - The application Ref 4/01915/19/FUL, dated 7 August 2019, was refused by notice dated 2 October 2019.
 - The development proposed is described as the erection of a three-bedroom detached family dwelling with carport/garage. Alterations to landscape including new orchard/copse, wildflower meadow and wildlife pond.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellants submitted an additional plan P-102 A, after the decision which indicates the intention to add 46 trees to the planting scheme over and above those on the initial drawing. It is not clear whether this plan was the subject of any consultation however given the additional content relates to additional tree planting I consider there would not be any harm to the interests of any party in my consideration of this plan in relation to the proposal.

Main Issues

3. The main issues are: a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework), including the effect of the proposal on the openness of the Green Belt and the purposes of including land within it; and, b) If the proposal would be inappropriate development whether 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 it.

Reasons

4. The appellants emphasise that the Council accept the site can be regarded as within the village despite only a very small part of the site being within the area defined in the development plan. The Council also refer to a court of

appeal case¹ which concluded that the position of the boundary, whilst a relevant consideration, is not necessarily conclusive. Nonetheless it remains the case that this site is located within the Green Belt where the Framework and Development Plan policies apply.

5. Paragraph 145 of the revised Framework establishes that new buildings within the Green Belt are inappropriate development unless they fall within a list of stated exceptions. Whilst listed exceptions include limited infilling in villages there is no definition of 'limited', 'infilling' or 'village' in the Framework. The Dacorum's Local Planning Framework Core Strategy (2013) (the Core Strategy) within the supporting text to Policy CS6 defines infilling as "*a form of development whereby buildings, most frequently dwellings, are proposed or constructed within a gap along a clearly identifiable built up frontage or within a group of buildings.*" In policy terms and in the absence of a national definition I give significant weight to this development plan definition.
6. The position of the site, the current use of the land and the relationship with other buildings mean the site cannot be considered as a gap along a clearly identified built up frontage as the appellants suggest. In the context of the site characteristics neither could it be considered to be a site within a group of buildings, not least, as it would be physically separate by some distance to other buildings to the North and East. The dwelling and garden would amount, in the appellants own figures, to just over 10% of the overall site with the remaining 90% being biodiversity enhanced meadowland and orchard which would be associated with the proposed residential use. The dwelling would not, as the appellants suggest, be surrounded by developed curtilage on all sides.
7. It is also argued by the appellants that the existing land use is not agricultural rather that it is residential curtilage to the adjacent Old Stables. Evidence alludes to the intended wildflower meadow and orchard being historically part of the land associated with the former equestrian use linked to the Old Stables; though elsewhere in the appellants evidence it is argued that the land has been residential curtilage for many years. There is nothing in the evidence which is definitive on the matter of any authorised use of the land. The appellants have submitted in evidence an unattributed definition of 'equestrian' use within agriculture to counter the Councils' statement that the site is agricultural. Notwithstanding that definition from my observations on site and from what I have read in evidence there is nothing to verify or support the assertion that this land has any authorised residential or other alternative use.
8. Taking all of the above into account the proposal would represent a new building in the Green Belt which would not fulfil any of the exceptions set out in the Framework and which would be contrary to Policies CS5 and CS6 of the Core Strategy. Consequently, it would be inappropriate development in the Green Belt that is, by definition, harmful and should not be permitted except in very special circumstances, a matter to which I will return.

Openness

9. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no

¹ Julian Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council (2015)

- definition of 'openness' in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development rather than being primarily about visual effects.
10. In physical terms the land is an open field at the edge of the village as defined in the Local Plan and accessed from the end of a narrow lane. The site is bordered by mature planting with established hedgerows and trees which give it a distinctive, rustic appearance and rural character.
 11. I saw no evidence of the site being used for any purpose other than open grassland. Whilst it may not perform any open space function for local residents its lack of public access is not material to my consideration of the effect on openness. Similarly, whether the site is, or is not, visible in the wider landscape is not the determining factor when considering openness in the Green Belt.
 12. The plans indicate that the intended landscaping and amenity area for the dwelling amounts to 702m² and the wildflower meadow area, separated from the dwelling by estate fencing, amounts to an area of 8178m² more than 10 times the size. The introduction of a new dwelling extending over 30 metres in depth, 15 metres in width and over 6.5 metres in height at its tallest point on a site which is devoid of any built form and would inevitably reduce openness in the Green Belt and represent an urbanising effect.
 13. The site includes the orchard and wildlife meadow within the curtilage to the new dwelling which could also have implications for the land in the long term if it were to be residential curtilage not least from ancillary structures. Whilst ancillary buildings could be restricted by way of a planning condition the site would be vulnerable to the domestication of a large area which would also have a harmful effect on openness.
 14. The appellants, in their final comments, advance an amended plan which revises the site area for the dwelling to a smaller area incorporating part of the field, removing the wildlife area and the remaining orchard from the red line application site and which they say the scheme could be amended to reflect. This is substantively different to the plan on which the Council determined the application and does not form part of the appeal proposal. To that extent I am considering the proposal on the basis of the site area as determined by the Council. In any event such a change would not alter the consideration of the impact that the dwelling would have on the Green Belt.
 15. Taking these factors into account there would be a harmful effect on openness in the Green Belt. Whilst that effect would be local and limited it would nonetheless be permanent and would compromise the objectives of the Framework in keeping Green Belt land permanently open.

Other considerations

16. The proposal would contribute a modest amount towards the overall housing provision in Chipperfield village. This weighs in favour of the proposal but in view of the limited scale of the development that benefit would attract only modest weight.
17. The appellants outline numerous other benefits which would accrue from the proposal including economic benefits from future residents supporting the local economy the creation of construction jobs in the short term however the latter

is at odds with the submission which indicates this to be a self-build project with a prefabricated off site construction intended for assembly on the site. These are factors which would limit the construction benefits referred to by the appellants.

18. Benefits are also advanced by way of environmental benefits relating to highly sustainable construction which the appellants argue have been overlooked by the Council. The sustainable construction characteristics of this scheme would represent a modest benefit.
19. My attention has been drawn to other sites and appeal decisions² where the environmental performance of the proposals was given weight. I have not been provided with all the details of these cases so cannot be certain that they are comparable with the case before me. Whatever the merits of those schemes, on the evidence before me, I am not bound to follow the same conclusions.
20. The biodiversity benefit proposed to the improvement of the existing grassland with a wildlife pond, meadowland tree planting and native hedgerows as well as a sedum roof to part of the proposed dwelling are acknowledged, though I note that part of the planting referred to has taken place so would not appear to be a particular benefit associated with this appeal proposal. The appellants intention to supplement the tree planting over and above that contained in the plan considered by the Council proposing an additional 46 trees would also be a benefit. Whilst the local biodiversity enhancements weigh in support of the proposal, the existing use of the site and the extensive indigenous boundary planting limits the environmental gain as the site inevitably already supports local wildlife.
21. My attention has been drawn to a series of other appeal decisions³ which the appellants highlight in support of their scheme, full details of these cases are not before me and I cannot be certain that the circumstances are the same as the appeal proposal. I note that only a very small number of these cases are in the same district and several relate to sites which are not within the Green Belt where different policy context applies. Whatever the merits of these other developments, from the evidence before me they do not appear to be directly comparable cases. In any event I have come to a judgement based on the merits of this scheme.
22. Reference has been made to infill housing being affordable to meet the needs of local people. However, there is no evidence that this development would provide an affordable unit of accommodation. The appellants reside on the adjacent site and whilst this dwelling may be intended for them to occupy as indicated in the self-build exemption form, there is little evidence in relation to the unit being affordable and I attribute little weight to this aspect of the appellants case.
23. The appellants state that the proposal is for local people with the appellant being able to demonstrate a strong locational connection to the village through residence and place of work. The appellant occupies the adjacent site so is already resident in the village and there is no mechanism within the submission

² APP/A2335/W/17/3171031; APP/A3010/W/18/3202720

³ APP/A1910/W/18/3205498; APP/B3438/W/18/3214689; APP/K0425/W/17/3188084; APP/A1910/W/18/3205498; APP/Q3115/W/16/3143817; APP/A1910/W/19/323109 (please note this last appeal reference contains an incomplete number)

which would ensure that the development was for a local person or that the adjacent vacated site would meet only a local identified need. In any event the local plan indicates that village appraisals will be the vehicle for the identification of sites to meet local needs.

24. The appellants highlight the content of the Chipperfield Village Design statement which they highlight illustrates that the Croft Estate, of which the appeal site is said to form part, is an area where limited new housing may be permitted. That may be so however it is not determinative when the appeal proposal is considered in the context of development in the Green Belt and the development plan policies.
25. The appellants have argued that very special circumstances should not need to be demonstrated though believe that the benefits of the proposed tree planting scheme should be given significant weight suggesting it would provide screening to the Residential Park beyond. Whilst dwellings on the site adjacent to the paddock are visible, they are not so prominent such that the additional planting would represent a significant benefit.
26. I have had regard to local representations offering general support for the development to which I attribute modest weight in favour of the development.
27. I have also had regard to the fact that there are no issues raised with regard to the effect on the amenity of neighbours or in relation to design, parking, access or highway safety. As all of these should be secured as a function of good planning and design and would be required of any new development they weigh neither for or against the development.
28. The appellants draw attention to the provisions in the Framework (in paragraph 11) which provides for circumstances where the policies which are most important for determining applications are out of date⁴ that planning permission should be granted. However, Footnote 6 to paragraph 11 disapplies that provision in certain circumstances including within land designated as Green Belt. The presumption afforded by the tilted balance would not apply in circumstances where Green Belt policies provide clear reasons to resist inappropriate development as is the case here. I therefore afford the tilted balance minimal weight in relation to this appeal.
29. The appellants argue that the proposal would satisfy all three dimensions of sustainable development as outlined in the Framework. However, for the reasons given above I have concluded that the appeal proposal represents inappropriate development and causes harm to openness in the Green belt as defined in the Framework which, by definition, is not sustainable development.

Green Belt Planning Balance

30. The Framework advocates that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the 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 case, the proposal amounts to inappropriate development, and in addition, limited harm would be caused to the openness of the Green Belt. These factors attract substantial weight.

⁴ In this case as the Council cannot demonstrate a five-year supply for the provision of land for housing

31. The other considerations in this case do not clearly outweigh the harm which has been identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the proposal would be contrary to the provisions of the Framework and to Policies CS5 and CS6 of the Core Strategy which primarily seek to protect the Green Belt from inappropriate development.

Conclusion

32. For the reasons set out and having regard to all other matters raised the appeal is dismissed.

Janet Wilson

INSPECTOR