
Appeal Decision

Site visit made on 23 June 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2020

Appeal Ref: APP/Q3630/W/19/3242413
294 Stroude Road, Virginia Water GU25 4DE

- 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 & Mrs R Young against the decision of Runnymede Borough Council.
 - The application Ref RU.19/0911, dated 14 June 2019, was refused by notice dated 18 October 2019.
 - The development proposed is construction of one new dwelling. Demolition of ancillary domestic buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of proposed development in the banner heading above from the planning application form. While different from that given on the Council's decision notice, there has been no confirmation provided that any change was agreed.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and,
 - The effect of the proposed development on the risks associated with flooding; and,
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt. The Framework in paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It outlines that the construction of new buildings, other than in connection with a

small number of exceptions set out in paragraphs 145 and 146, should be regarded as inappropriate development. Saved Policy GB1 of the Runnymede Borough Local Plan Second Alteration 2001 (the LP) states that there will be a strong presumption against development that would conflict with the purposes of the Green Belt or adversely affect its open character.

5. Paragraph 145(d) of the Framework includes an exception that concerns the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The appeal site is a residential garden area associated with Norfolk House. It includes 2 outbuildings, which the appellant indicates were originally constructed for the stabling of horses by the previous owner but are now used for domestic storage ancillary to Norfolk House. There is no evidence before me to indicate otherwise.
6. The 2 outbuildings, measuring around 139 square metres in area, would be replaced by the proposed dwelling. There is disagreement between the main parties in respect of the gross internal area (GIA) of the proposed dwelling. The appellant submits that it would have a GIA of 181 square metres, whereas the Council states that it would have a GIA of 222 square metres. Nevertheless, even if I were to take the appellants' calculation, the proposed dwelling would result in a 30% increase in GIA over and above the outbuildings to be replaced. Taken together with the substantial increase in height and mass, I find that the proposed dwelling would be materially larger than the buildings that it would replace. The proposal therefore would not meet the exception in paragraph 145(d) of the Framework.
7. Paragraph 145(g) of the Framework sets out an exception for the limited infilling or the partial or complete redevelopment of previously developed land, providing that it would not have a greater impact on the openness of the Green Belt than the existing development. According to the Framework¹, previously developed land comprises 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. This excludes, amongst other things, land in built-up areas such as residential gardens.
8. Based on the evidence before me and from what I observed at my site visit, I am satisfied that the appeal site is within the garden associated with Norfolk House. I do not regard the appeal site as land in a built-up area and therefore I find that it constitutes previously developed land. In order to meet the exception in paragraph 145(g) of the Framework, the question is whether or not the proposal would have a greater impact on the openness of the Green Belt than the existing development.
9. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
10. The proposed dwelling would have a greater footprint than the buildings that it would replace. Furthermore, the proposal would comprise a substantially larger building in terms of its height and mass. It would also increase the extent of hardsurfacing to provide access and car parking. As such, the proposal would

¹ See 'Annex 2: Glossary' – the National Planning Policy Framework 2019

result in a significant reduction in the openness of the Green Belt in spatial terms compared to the existing development.

11. The visual impact of the proposal would be confined to a degree by the position of the site close to the rear of the dwellings in Stroude Road and Luddington Avenue and the presence of trees along the western boundary, which would largely screen wider views of the site. However, these factors would not completely eliminate the visual impact on the Green Belt openness arising from the three-dimensional size increase over and above that of the existing buildings on site and the domestic appearance of the proposed building. Furthermore, these factors do not affect the spatial impact of the development on Green Belt openness. I therefore consider that in both spatial and visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing development. As such, the proposal would not comprise an exception to inappropriate development when assessed against Paragraph 145(g) of the Framework.
12. The appellant refers to the exception in paragraph 145(e) of the Framework, which relates to limited infilling in villages. The Framework does not provide a definition of the terms 'limited', 'infilling' or 'village' and therefore this is a matter for the decision maker. Given that one dwelling is proposed, the proposal would be 'limited' for the purposes of paragraph 145(e).
13. I have had regard to the appeal decision² at 314 – 316 Stroude Road where the Inspector found that physical factors suggest that Stroude should be regarded as a village for the purposes of interpreting paragraph 145 of the Framework. Even if I were to conclude that the appeal site is within a village, I do not consider that the proposal would constitute infilling. Whilst there is no definition of 'infilling' in the Framework, to my mind the term denotes the development of a relatively small gap within an otherwise built up frontage.
14. The nearby dwellings in Stroude Road and Luddington Avenue are sited in a linear arrangement, providing a frontage of houses with gardens set to the rear. The proposed dwelling would be located to the rear of the existing houses and would not infill a gap in a built-up frontage. In this respect, the proposal differs from the appeal decision at 314 – 316 Stroude Road, where the Inspector stated that the proposal is for 2 dwellings on a plot which is sandwiched between existing housing that forms a clear, linear pattern of development. The proposal therefore would not meet the exception in paragraph 145(e) of the Framework.
15. For the above reasons, I find that the proposal would not meet the exceptions in paragraph 145 of the Framework. The proposal therefore constitutes inappropriate development in the Green Belt when assessed against the Framework and Policy GB1 of the LP, which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances.

Flood risk

16. The appellant's Flood Risk Assessment (the FRA) shows that the appeal site is largely within Flood Zone 2 and the vehicular access from Luddington Avenue

² APP/Q3630/W/19/3226132

would be within Flood Zone 1. Paragraph 155 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, i.e., away from Flood Zones 2 and 3 and into Flood Zone 1, the area of lowest flood risk.

17. The Framework indicates that the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. To demonstrate this a Sequential Test should be undertaken to show that there are no reasonably available sites for development in Flood Zone 1. Only where the appellant can demonstrate that there are no reasonably available sites in Flood Zone 1 should reasonably available sites in Flood Zone 2 be considered. As such, national policy on flood risk is concerned with ensuring that the location of development is appropriate in principle before considering flood resilience and flood mitigation measures.
18. Whilst the FRA acknowledges the requirement for a Sequential Test, there is no evidence before me to show that a robust search for reasonably available sites in Flood Zone 1 has been undertaken and that this search revealed no such sites to be available. Accordingly, the proposal does not demonstrate that the Sequential Test has been passed. The FRA provides details of flood resilience and mitigation measures, however in the absence of a Sequential Test, the proposed development is unacceptable in principle, and therefore it is not necessary for me to consider such measures. It is only if the appellant could demonstrate that there are no reasonably available sites in Flood Zone 1 that I should consider this evidence.
19. As it has not been demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding, I conclude that the proposed development would be subject to unacceptable flood risk and would therefore be contrary to the Framework, the PPG and Saved Policy SV2 of the LP, which seek to ensure that development proposals avoid areas of flood risk.

Other considerations and the Green Belt balance

20. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I find that the proposed development would be inappropriate development and I therefore attach substantial weight to the harm to the Green Belt, in accordance with paragraph 144 of the Framework. Furthermore, I have found that the proposal would be subject to an unacceptable flood risk.
21. The Council cannot demonstrate a 5 year supply of deliverable housing sites. The proposed development would contribute towards meeting the shortfall in housing supply, however the benefits would be limited given that one dwelling is proposed. Modest economic advantages would also arise from the construction and occupation of the proposed dwelling.
22. The other considerations identified in support of the scheme, even when taken together, do not clearly outweigh the totality of the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal is therefore contrary to the Framework and Policy GB1 of the LP which seek to protect the Green Belt.

Other Matters

23. The appeal site is within the 5km buffer zone of the Thames Basin Heaths Special Protection Area (the SPA). The SPA is a European designated site which is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). Had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, regulation 63(1) of the Habitat Regulations indicates that the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. As I am dismissing the appeal for other reasons, it has not been necessary for me to consider this matter further.
24. I have had regard to the representations from local residents, however the considerations raised would not alter my decision.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR