
Appeal Decision

Site visit made on 11 August 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 25 August 2020

Appeal Ref: APP/H2265/W/20/3251103

Land at Oakdene, Eggpie Lane, Hildenborough, Tonbridge TN11 8PE

- 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 Honey against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/19/02802/FL, dated 26 November 2019, was refused by notice dated 17 January 2020.
 - The development proposed is erection of detached dwelling.
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Decision

1. I dismiss the appeal.

Main Issues

2. The site is within the Metropolitan Green Belt and the main issue are;
 - Whether the proposal is for inappropriate development in the Green Belt having regard to national and local policy, and if so:
 - The weight to be attached to other considerations.
 - The Green Belt and planning balance; whether the harm is clearly outweighed by other considerations, and if so, would this amount to the very special circumstances required to justify the grant of permission.

Reasons

Green Belt

3. Core Strategy Policy CP3 states that national Green Belt policy will apply, and that is contained in chapter 13 of the 2019 National Planning Policy Framework. Paragraph 133 states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The five purposes of the Green Belt are set out in paragraph 134.
4. In considering proposals affecting the Green Belt, paragraphs 143 and 144 state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, which 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. The construction of new buildings should

be regarded as inappropriate development other than the exceptions in paragraph 145. The appellant does not claim to accord with exceptions a), b), c), d) or f) and that is agreed.

5. Exception e) is the limited infilling in villages, and the appellant correctly states that there is no Glossary definition of a 'village'. The proposal is limited to a single house and would infill a gap to the north of Oakdene and before the boundary with The Ham. The appellant refers to the 'Braintree' judgements, and to the extent relevant, the site could not now be regarded as 'isolated' in the terms of paragraph 79 of the Framework due to its proximity to other built form.
6. The reference to another Appeal Court case, *Woods v Gravesham*, is of limited relevance, the site there being described as appearing on the ground to be an infill location because of existing development all around it, and whether the site was close to or within the defined village boundary was the determining issue. The Appeal Court found that in determining whether an appeal site was within the current village boundary and constituted infill, or was outside and in the Green Belt, the inspector had misdirected himself by relying on a previous local plan rather than the position on the ground.
7. The appeal site is not within a defined boundary, and from observation at the site inspection, does not have other development all around it. The site is within a line of development along this side of the road only, and whilst reasonably closely spaced in parts, with the appeal site a less representative gap between dwellings, the development is sporadic. The development of the appeal site would match the density more evident to the south and this finding is backed by the Council not identifying failings through the effect on character and appearance.
8. However, the sporadic development seen on the ground should not be considered as a village in the terms of paragraph 145, and notwithstanding that the proposal is infilling, exception e) does not apply.
9. Turning to exception g), it is agreed that the site is previously developed land as defined in the Glossary, through being a part of the curtilage of a dwelling and through not being excluded by being in a built-up area.
10. The land is currently open with the low garage to the north of Oakdene being the nearest built form on that side and the building on The Ham being set centrally on its plot. Through views are contained by trees to the rear and vegetation to the frontage offers filtered views. But, the lack of buildings on the site would result in the proposed 2-storey dwelling, with its high-pitched roof, would have a greater impact on the openness of the Green Belt than the existing situation.
11. The second part of exception g) has a more nuanced requirement not to cause substantial harm to the openness of the Green Belt but is not appropriate as this would not contribute to meeting an identified affordable housing need in the area.
12. It is concluded that the proposal would be inappropriate development in the Green Belt through an adverse effect on openness and that is the test in exception g). The fact that other types of buildings may be erected in the Green Belt under the other provisions of paragraph 145, and may affect

openness, does not alter that finding. The proposal would, albeit to a limited extent, conflict with the purpose of the Metropolitan Green Belt of checking the unrestricted sprawl of London.

Other Considerations

13. The appellant states that the Council does not have a 5-year supply of housing land as required by the Framework, and that as a result, Policy CP14 and the restriction on housing in the countryside is out-of-date, triggering the 'tilted balance' in paragraph 11. Although the site is within the countryside, and Policy CP14 is not doubt important, the location of the site within the Green Belt means that those policies should be regarded as being the most important. Footnote 6 applies to the statement that permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; and that footnote includes land designated as Green Belt.

The Green Belt Balance

14. Paragraph 144 of the Framework requires any other harm to be placed in the balance. The Council have however not identified any other harm and that conclusion is concurred with now. That paragraph does however state that substantial weight should be given to any harm to the Green Belt.
15. Whilst only a single house, the proposal would add to the supply in a Council area that is unable to demonstrate the required 5 years supply of land, and whilst the presumption in paragraph 11 of the Framework does not apply, this could be a material consideration. However, in the balance it is determined that the harm by reason of being inappropriate development in the Green Belt, through an adverse effect on openness is not clearly outweighed by other considerations, such that the very special circumstances necessary to allow the appeal do not exist.

Conclusions

16. The proposal is inappropriate development in the Green Belt and there are no other considerations sufficient to clearly outweigh the harm so that very special circumstances have not been shown to exist. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR