
Appeal Decision

Site visit made on 15 September 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

Appeal Ref: APP/G2245/W/20/3253098

Land adjacent to Spile Bank, New Road, Penshurst TN11 8EJ

- 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 J Worster against the decision of Sevenoaks District Council.
 - The application Ref 20/00221/FUL, dated 27 January 2020, was refused by notice dated 15 April 2020.
 - The development proposed is new dwelling and garage.
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Decision

1. I dismiss the appeal

Main Issues

2. The site is within the Green Belt and the main issues are:
 - Whether the proposal is inappropriate development in the Green Belt.
 - The effect of the proposal on the openness of the Green Belt
 - The effect of the proposal on the character and appearance of the High Weald Area of Outstanding Natural Beauty.
 - The effect of the proposal on highway safety and the free flow of traffic.
 - 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

Green Belt

3. The proposal is for the erection of a new dwelling and paragraph 145 of the National Planning Policy Framework states that the construction of new buildings in the Green Belt is inappropriate other than in listed exceptions. The proposal is not limited infilling within a village as exception e) as defined in the Supplementary Planning Document '*Development in the Green Belt*' as the site is at the end of a line of development from the north and the existence of the bungalow opposite does not assist. The Supplementary Planning Document makes clear that infill is to be of a narrow gap, and that is not the case here. The proposal is not affordable housing as exception f) nor the use of previously developed land as exception g).

4. The site was identified in the Penshurst and Fordcombe Parish Survey, with particular reference to being at the end of a row of 6 properties and to the Nashes Farm entrance forming the southern boundary. Whilst paragraph 4 purports to consider the impact on the Green Belt, there is no analysis other than the comment that the site is '*conspicuous in its absence of development*'. The content of this document does not alter the conclusions above.
5. The proposal is therefore inappropriate development and as set out in paragraph 143 of the Framework, such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Framework paragraph 144 states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
7. It is necessary now to consider the other main issues to determine if there is any other harm.

Openness

8. The site is open other than the presence of a caravan, and slopes down from the road with through views to the open valley beyond. The factual observations in the Parish Survey appear to hold true, and the development proposed, notwithstanding the low form and its location on a lowered plateau within the site, would reduce openness and through views. The roof being at the level of the adjoining property, Spile Bank, does not mitigate the harm, which is very much through the erosion of openness in views from west to east, as well as there being a reduction in openness as a matter of fact, through the erection of a building where none exists at present.
9. The essential characteristics of the Green Belt are openness and permanence as stated in paragraph 133 of the Framework, and substantial weight applies to the harm that the proposed development would cause.

Area of Outstanding Natural Beauty

10. Core Strategy Policy LO8 on the countryside and the rural economy states among other things that the distinctive character of the High Weald Area of Outstanding Natural Beauty and its setting will be conserved and enhanced. Policy EN5 of the Allocations and Development Management Plan concerns landscape and restates the policy in paragraph 172 of the Framework that Areas of Outstanding Natural Beauty will be given the highest status of protection in relation to landscape and scenic beauty.
11. The site is described in the Parish Survey as being approximately equidistant between Penshurst village and Fordcombe and there is sporadic built development along the road to the north, although the appeal site is an undeveloped plot between the last of the ribbon development and an entry to a farm. The site is not truly open countryside due to it being a plot as identified in the Parish Survey, but it does serve to bring a countryside character and appearance to the road edge and leaves the farm access and its Right of Way bridleway as a rural lane. The development of the plot as proposed would consolidate the ribbon of development and cause harm to the rural qualities of the area.

12. The natural beauty of the countryside in this location, with long views from the Right of Way where it crosses the road would be severely compromised by the development of the site, undermining the designation of the High Weald Area of Outstanding Natural Beauty, contrary to Policies LO8 and EN5 as well as the Framework.

Highway Safety

13. Design principles are detailed in Allocations and Development Management Plan Policy EN1 including ensuring satisfactory mean of access for vehicles and pedestrians.
14. The access is shown on the corner of the site adjoining the farm and Right of Way access to road, and where there is a field gate at present. The precise nature of the entry and its relationship with the farm access is not clear, but the Rights of Way Officer warns against use of the Bridleway as being an offence unless there is a private right of access over it.
15. The road at this location is subject to a 40mph speed limit, vehicles heading north having only left the National Speed Limit a short distance to the south. In the absence of verified speed data, it is reasonable to assume a requirement for visibility splays of 2.4m by 101m in both directions. Whilst the appellant states that 40mph is unlikely to be achieved, and that may well be more likely in the southbound direction, observations at the site inspection indicated some drivers failing to lose speed appreciably northbound.
16. The visibility splays cannot be secured over land within either the Highway or the appellant's control, and it has not been sufficiently shown that highway safety and the safe use of the bridleway can be achieved, and hence that Policy EN1 can be met,

Other Considerations

17. It is agreed that the Council does not have a 5-year supply of housing land as required by the Framework, and that as a result, policies restricting housing in the countryside are out-of-date, triggering the 'tilted balance' in paragraph 11. 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 and an Area of Outstanding Natural Beauty.

Planning and Green Belt Balance

18. Harm has been identified by reason of this being inappropriate development in the Green Belt, and harm has also been identified to openness, the character and appearance of the High Weald Area of Outstanding Natural Beauty, and there is an identified threat to highway safety.
19. 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, and the other harm identified is not clearly outweighed by other considerations,

such that the very special circumstances necessary to allow the appeal do not exist.

Conclusions

20. The proposal is inappropriate development in the Green Belt and there are no other considerations sufficient to clearly outweigh the harm and as a result, 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