
Appeal Decision

Site visit made on 29 September 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2020

Appeal Ref: APP/T0355/W/20/3254648

Queens Head, Windsor Road, Water Oakley, Windsor SL4 5UJ

- 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 Davidson against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application 19/01181, dated 11 April 2019, was refused by notice dated 19 December 2019.
 - The development proposed is demolition of existing buildings and change of use of land to allow siting of up to 55 residential park homes.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As a result of information submitted with the appeal and further advice from the Lead Local Flood Authority, the Council does not wish to pursue the reason for refusal relating to flood risk. I therefore have not considered this issue any further.
3. The appellant has submitted a draft unilateral undertaking to secure part of the scheme as affordable accommodation. I consider this undertaking in my reasoning.

Main Issues

4. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt, including its effect on openness
 - The effect on the living conditions of the occupants of Queen Acre Cottage, with respect to noise and privacy
 - The need for affordable housing provision
 - If the development is inappropriate, 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 development.

Reasons

Inappropriate development

5. The appellant argues that the development would not be inappropriate on two grounds.
6. Firstly, under paragraph 145 (g) of the National Planning Policy Framework (the 'Framework') the partial or complete redevelopment of previously developed land is considered as an exception to the general presumption against inappropriate development in the Green Belt, so long as it would not have a greater impact on the openness of the Green Belt than the existing development, or not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
7. In my judgement, the development would have a substantially greater impact on the openness of the Green Belt than the existing uses and buildings that occupy the site. Although the various parcels of land that make up the site are visually screened to some extent from the Windsor Road by hedging and trees, and from surrounding farmland by the field hedges, I consider the park homes and associated driveways and parking areas would still be seen where hedges are less dense, over the tops of the hedgerows and fences, and in views down the proposed access drive. Due their number and positioning on the site, including being close to its boundaries, the park homes would far exceed in visual terms the impact that the existing buildings and uses have on the openness of the site taken as a whole. Equally importantly, the development would have a spatial impact on the Green Belt. Even where visual intrusion was mitigated by the boundary screening, it would be apparent that the site was fully developed as a residential caravan park. This in itself would cause harm to openness.
8. The harm to openness would be substantial. Irrespective of whether the development would contribute to meeting a need for affordable housing in the area, the degree of harm is such that it would fail to meet the exception provided for in paragraph 145 (g) of the Framework.
9. Secondly, under paragraph 146 (e) of the Framework material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
10. In this case, the proposed change of use to a caravan site would fail to preserve the openness of the site, for the reasons given above, unlike the examples given in paragraph 146 (e) which essentially retain land as open and undeveloped. The change of use would also conflict with purposes of including land within the Green Belt, as set out in paragraph 134 of the Framework, which include checking the unrestricted sprawl of large built-up areas, preventing neighbouring towns merging into one another, and assisting in safeguarding the countryside from encroachment.
11. I conclude that the proposal would not fall within either of the exceptions set out under paragraphs 145 (g) or 146 (e) of the Framework because it would

have a substantially greater adverse impact on the openness of the Green Belt than existing development on the site, and would conflict with purposes of including land within it. For the same reasons it would conflict with Policies GB1 and GB2 of the Royal Borough of Windsor and Maidenhead Local Plan, which seek to protect the openness of the Green Belt. I therefore consider the proposal to be inappropriate development in the Green Belt.

Living conditions

12. Queen Acre Cottage is currently bounded along one side by the drive to the area certified by the Camping and Caravanning Club and at the rear by a utility area for that use. Vehicle movements and activity associated with the camping and caravanning use would be replaced by a cycle store and parking area separated by a landscaped strip towards the front of the plot at Queen Acre Cottage, and park homes towards the rear. While the pattern of activities would change, the amount of noise and disturbance would, in my estimation, be no worse and possibly may be less than that experienced by the occupants of Queen Acre Cottage at present.
13. In terms of privacy, park homes are by their nature single storey in height with windows at ground floor level. I consider overlooking of Queen Acre Cottage is therefore unlikely to occur, particularly given the timber fence that surrounds the site and the outbuildings in its rear garden, all of which would provide screening from the neighbouring park homes. Removal of the dwelling at Queens Head would remove one first floor window in the flank elevation of that dwelling that would further improve the privacy of Queen Acre Cottage.
14. I conclude that the proposal would not harm the living conditions of the occupants of Queen Acre Cottage either through additional noise disturbance or loss of privacy. It would therefore comply with Policy NAP3 of the Royal Borough of Windsor and Maidenhead Local Plan, which resists development that would create unacceptable levels of noise.

Affordable housing

15. The appellant has indicated a willingness to provide 20 park homes as affordable accommodation as part of the proposed development. The Council acknowledges that this would in principle accord with the requirements of Policy H3 of the Royal Borough of Windsor and Maidenhead Local Plan, which requires that suitable residential development provides a proportion as affordable housing, but maintains its concern that such provision has not been satisfactorily secured. The appellant has now submitted a draft unilateral undertaking which purports to secure the affordable housing provision in a legally binding manner.
16. It appears that there is general agreement on this issue between the main parties, other than on the mechanism for delivering the affordable housing being satisfactorily secured. I am satisfied that there is a demonstrable need for affordable housing in the local authority area, which this provision would help to meet.
17. A unilateral undertaking would normally be a suitable means of securing such provision, but I note that the draft document submitted as part of the appeal is not dated or signed, nor do I have any comments on its detailed provisions from the Council. Certain matters, such as referring to park homes as

'dwellings', and provision of the affordable accommodation only being triggered once more than 50% of the open market park homes have been occupied, I expect would need discussion and possible correction. In its current form, the undertaking is not legally binding and therefore can be given little weight.

18. I conclude that while this issue is likely to be one that could be resolved, because the unilateral undertaking is not legally binding it does not satisfactorily secure the provision of affordable accommodation for the purposes of this appeal. The proposal would therefore fail to meet the requirements of Policy H3 of the Royal Borough of Windsor and Maidenhead Local Plan.

Other Matters

19. The appellant reports that the Council currently only has a 4.1 years' supply of identified housing land. This is below the five year supply of housing land that the Council is expected to be able to demonstrate by national planning policy. The park homes would provide additional residential accommodation in the Borough, where there is currently an unmet demand for new housing. This is a benefit to which I give moderate weight.
20. I also recognise that park homes can provide relatively low cost residential accommodation when compared to permanent dwellings of a similar size which can be of benefit particularly to younger and older people, can be installed more quickly than built structures because they are manufactured off-site, and that their ability to be partly or fully fitted out is of benefit to some occupants. These are also of benefit, albeit limited.
21. The appellant has made reference to development being granted on the opposite side of the Windsor Road. No further details of this development have been given although if it relates to the redevelopment of Bray Studios, then I do not consider the sites to be comparable, given the much larger buildings and associated development that exists at the Bray Studios site.
22. I note that representations have been made which support as well as oppose the development, and also that the occupier of Queen Acre Cottage supports the proposal. I have taken account of these representations in reaching my conclusions on the main issues.
23. The Council refer to Planning Policy for Traveller Sites in their first reason for refusal. So far as I am aware the appeal site is not recognised as a gypsy or traveller site, and therefore this policy is not relevant to the appeal proposal.
24. The site is included in a recent Housing and Economic Land Availability Assessment. This Assessment forms a background document to the emerging Local Plan. Neither main party has indicated that the appeal site is allocated for development in the emerging Local Plan, which in any event is still at examination and therefore carries only limited weight.

Planning Balance

25. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.

26. The harm caused by the inappropriate nature of the development in the Green Belt attracts substantial weight. In addition, substantial harm would be caused to the openness of the Green Belt. This adds weight to the harm already identified.
27. Balanced against that harm is the moderate benefit of providing additional residential accommodation and the limited benefits of it being lower cost, ease of installation and partly or fully fitted out. An element of the scheme is proposed as affordable residential accommodation but because it has not been satisfactorily secured I give little weight to that particular benefit in this appeal.
28. I have found that the development would not harm the living conditions of the neighbouring property, but the absence of harm is a neutral effect that does not add to the benefits of the scheme.
29. I consider that the moderate benefits offered by these other considerations do not clearly outweigh the substantial harm to the Green Belt. Consequently, very special circumstances to justify the inappropriate nature of the development do not exist.
30. Because of the lack of a five year housing land supply, I acknowledge that the policies relating to housing provision in the Local Plan are out of date within the context of paragraph 11 of the Framework¹. In such circumstances, the Framework directs permission to be granted unless policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development proposed.
31. Green Belt land is recognised as one such area of particular importance². As I have concluded that the proposal is inappropriate development within the Green Belt and that there are no very special circumstances to justify making an exception in this case, Green Belt policy as set out in paragraphs 133-147 of the Framework provides a clear reason for refusing the development. It follows that the 'tilted balance' in paragraph 11 of the Framework does not apply in this case.
32. The appeal must therefore fail.

Conclusion

33. I conclude that the appeal is dismissed.

Guy Davies

INSPECTOR

¹ National Planning Policy Framework, footnote 7.

² National Planning Policy Framework, footnote 6.