
Appeal Decision

Site visit made on 26 October 2020

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2020

Appeal Ref: APP/G2245/W/20/3252295

Highlands, Ash Road, Hartley, Kent DA3 8HA

- 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 Young against the decision of Sevenoaks District Council.
 - The application Ref 19/01371/FUL, dated 8 May 2019, was refused by notice dated 3 December 2019.
 - The development proposed is erection of a single storey dwelling.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are:
 - the effect of the proposal on the Green Belt, including any effects on the openness of the Green Belt; and
 - if the proposal is found to amount to inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such as to provide the very special circumstances required to justify development in the Green Belt.

Reasons

3. The appeal relates to a rectangular plot to the rear of a bungalow facing Ash Road known as Highlands. The Council and the appellant agree that the land was formerly part of the garden of Highlands, although it is now fenced off from that garden and has its own access from Chapel Wood Road. Highlands stands within a substantial plot to the east of the appeal site. To the west is a bungalow known as Woodview which also stands in a substantial plot.
4. The frontage of the appeal site is enclosed by a concrete block wall, behind which is evergreen planting. There is a group of single storey sheds in the north western part of the site. To the south of Chapel Wood Road there is a footpath which skirts a housing estate within the settlement of New Ash Green. The path is above the level of the road and is separated from it by a landscaped bank, with groups of trees and some open grassy areas which afford views northwards over the appeal site.

Effect on the Green Belt

5. The site is within the Green Belt where the National Planning Policy Framework (the Framework) states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings should be regarded as inappropriate unless one of the exceptions specified in the paragraph apply. In this case the appellant relies on paragraph 145(g) which allows for the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
6. The Council and the appellant agree that the site is previously developed land for the purposes of applying the Framework because it was within the curtilage of a building. I share that view because, although the land was part of a residential garden, it is not in a built up area and so is not excluded from the definition of previously developed land given in the glossary to the Framework.
7. The existing sheds would be removed and replaced with a bungalow that would have a pitched roof with gable ends. The Council has calculated that the footprint of buildings on the site would increase from 84m² to 100m² whilst the built volume would increase from 235m³ to 348m³. Moreover, the proposed bungalow would have a ridge some 16.5m in length at a height of 6m, which is around twice the height of the existing sheds. The appellant has not disputed these figures and I see no reason to doubt them. I consider that the proposal would result in significant increases in the footprint, volume and height of built development on the site.
8. With regard to the visual effect on the Green Belt, the existing sheds are not readily visible from Chapel Wood Road due to the boundary wall and planting and other vegetation within the site. The visibility of the proposed bungalow would depend on matters such as whether the gates are open or closed and how the boundary landscaping is maintained. Nevertheless, bearing in mind the height and length of the proposed roof structure, I consider that it is likely to be seen from the footway that skirts the housing area referred to above. It would also be seen from the adjoining properties at Highlands and Woodview. The site would therefore take on a more developed appearance than it currently has, which would detract from the current sense of openness.
9. My overall assessment is that the proposal would have a greater impact on the openness of the Green Belt than the existing buildings do. It would not therefore fall within the exception set out in the first part of paragraph 145(g).
10. The appellant argues that the proposal also gains support from the second part of paragraph 145(g) which allows for development that would use previously developed land to meet housing need. The Council accepts that it is not currently able to demonstrate the five year supply of housing sites required by the Framework. However, the exception relied on by the appellant refers specifically to meeting an identified need for affordable housing. There is no evidence that the appeal scheme would meet such a need so the proposal does not gain support on this basis.

11. I have taken account of a previous appeal decision relating to a proposal for a bungalow on the same site¹. In that case the Inspector found that the appeal site did not present itself as a narrow gap in a substantially built up frontage where infilling would be appropriate. I agree with that assessment. However, insofar as that appeal decision referred to previously developed land, it is important to note that it pre-dated more recent case law relating to the approach to residential gardens that are not within built up areas².
12. I conclude that the proposal would amount to inappropriate development which would be, by definition, harmful to the Green Belt. Moreover, there would also be harm to the openness of the Green Belt. The Framework states that substantial weight should be given to these harms. The proposal would also be contrary to Policy LO1 of the Council's Core Strategy (CS) which states that, where policies to protect the Green Belt are relevant, development will only take place where it is compatible with those policies.

Other considerations

13. The proposal would make a contribution to housing supply in circumstances where the local planning authority cannot demonstrate the five year supply required by the Framework. However, it would result in the addition of just one unit to housing land supply. I therefore attach only moderate weight to this factor.

Green Belt balance

14. The proposal would represent inappropriate development which would be, by definition, harmful to the Green Belt. Moreover, there would be harm to the openness of the Green Belt. In accordance with the Framework, I attach substantial weight to these harms. The addition of one unit of housing supply is a consideration weighing in favour of the proposal. However, I do not think that this consideration is sufficient to clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances required to justify development in the Green Belt do not exist.

Conclusion

15. This is a proposal for housing in circumstances where the Council cannot demonstrate a five year supply of deliverable housing sites. However, mindful of the approach set out in paragraph 11 of the Framework, I conclude that the application of policies in the Framework relating to Green Belt provide a clear reason for refusing the proposal.
16. The proposal would conflict with the development plan in relation to Green Belt. I have not identified any considerations which indicate that the appeal should be determined other than in accordance with the development plan. The appeal should therefore be dismissed.

David Prentis

Inspector

¹ APP/G2245/A/13/2205349

² Dartford Borough Council v Secretary of State for Communities and Local Government [2017] EWCA Civ 141