
Appeal Decision

Site visit made on 9 October 2020

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2020

Appeal Ref: APP/H2265/W/20/3250931

Land opposite Higham Lane, Hadlow, Kent, TN10 4HF

- 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 Martin Stoate & Mr John Arthur against the decision of Tonbridge and Malling Borough Council.
 - The application Ref: TM/19/02226/OA, dated 20 September 2019, was refused by notice dated 19 November 2019.
 - The development proposed is described as the redevelopment of a disused site for affordable and market housing - access and layout only being sought.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is an outline application, including details of access and layout, with appearance, landscaping and scale reserved for future consideration.

Main Issues

3. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposal on the character and appearance of the open countryside around northern Tonbridge.
 - 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

4. The appeal site is a parcel of land of some 0.7 hectares, situated to the western end of Old Hadlow Road at the point where it meets the A26, and opposite the junction of the A26 with Higham Lane. It is situated in the Green Belt and is currently unused land with an area chiefly of rough grass in the centre surrounded by a boundary belt of mature and semi-mature trees. At the time of my visit there was an industrial container unit on the site, but I

have no specific information regarding its purpose, given the unused nature of the site as a whole.

5. There is a residential development at Foalhurst Close to the east of the site, from which it is separated by an access road that leads to an electricity sub-station. The sub-station itself is sited close to the south-eastern corner of the appeal site. To the south, south-west and south-east of the site is open countryside, while to the north of the A26 is residential development, which follows the north side of the main road as it begins to swing slightly south at the western end of the site.
6. The proposed development would involve the construction of 6 dwellings in the central part of the site. The application indicates that 4 of these houses would be affordable. An access road would service the houses and it would lead off Old Hadlow Road at a point near the eastern end of the site. This means of access and the layout of the 6 houses were to be determined as part of the application proposal, with all other matters reserved.

Whether the proposal would be inappropriate development in the Green Belt

7. Policy CP3 of the Tonbridge and Malling Borough Council Core Strategy (CS) indicates that in a specified area that includes the appeal site, National Green Belt Policy will be applied.
8. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 goes on to add that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Moreover, 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.
9. Paragraph 145 of the Framework indicates that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, with certain exceptions. Included among these stated exceptions are 'limited infilling in villages' and 'limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites)'.
10. There is no definition of 'village' in the Framework, but in my opinion the location of the appeal site is on the edge of the northern suburbs of the substantial town of Tonbridge, and is not in a village. Furthermore, in these circumstances, it is unclear what area the term 'local community' should refer to, though its context in the Framework would seem to indicate a village or other rural community. In both instances, the exceptions given in the Framework would not appear to relate to the situation of the appeal site and this proposal. I shall develop the issue of affordable housing later in this letter.
11. In the light of the above, I find that the proposal would be inappropriate development, harmful to the Green Belt, and I afford this harm substantial weight. On this basis, it conflicts with Policy CP3 of the CS and with provisions of the Framework. I must now, therefore, consider whether this harm is clearly outweighed by other considerations

Effect on openness

12. The appellants contend that the site is surrounded on three sides by residential development. However, development along Old Hadlow Road, on both sides of that road, to the east of the appeal site, effectively ends at the site, and from that point there is no further development on the south side of Old Hadlow Road or the A26 as they continue to the west and south-west.
13. An application for a residential development on the same site was refused in 1979. The decision was appealed and was dismissed. In the Inspector's decision letter, he noted that the site *'forms part of a stretch of open countryside ... which extends for a considerable distance to the south and south-east of the A26'*, and that *'most of the development would be sited adjacent to the A26 and would intrude into open countryside. Along this stretch of the road, the A26 effectively separates the town from the countryside. This clear cut separation between the town and rural area is an important feature of Tonbridge ... In my opinion, even small intrusions with this rural area would diminish its value'*. There would not appear to have been any significant changes in this area since the Inspector wrote the decision letter, and I concur with his views, expressed then and still valid now.
14. The appellants have referred to other recent examples of developments in other local authority areas that have received planning permission in Green Belt locations. I have limited information as to the circumstances of these developments, with particular regard to whether they are sited in a village location and the nature of the site for example but, in any case, I have dealt with this proposal on its own merits given the specific circumstances of its own location.
15. In conclusion on this issue, Paragraph 133 of the Framework indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence. In the light of the above, I find that the proposed housing would represent a degree of urban sprawl, harmful to the openness of the Green Belt, particularly by virtue of its scale and its location as an extension to existing development along Old Hadlow Road.

Character and appearance

16. The site is effectively part of an open area of countryside comprising, in the vicinity of the site, rough grassland and wooded areas. The site itself is largely surrounded by existing planting of mature and semi-mature trees and shrubs. This means that the internal area of the site is barely visible from outside and that the proposed houses would have limited visual impact in the area.
17. The appellants have provided tree and ecology surveys to report on the likely effects of the proposal. I am satisfied that the proposed development would have little if any harmful effect on the biodiversity of the area. Any impacts could, in any case, be controlled by way of condition. The construction of the houses and the creation of a new access would require the removal of some trees, which would marginally increase the visibility of the houses from the road. Again this, in itself, would be unlikely to result in significant harm, though I do, however, have some concerns regarding the impact on boundary planting of works needed to create adequate sight lines at the point of access to the site. Furthermore, there is currently no footpath alongside Old Hadlow

Road at the boundary, and the road is relatively narrow at this point. It is not clear how the creation of a footpath within the site, as shown on the site access plan, would impact on boundary planting, nor the resultant effect of this on the visibility of the development through that boundary planting belt.

18. In the light of the above, whilst the scale of any impact on the character and appearance of the area would be very small in visual terms, nevertheless, at best, the impact would be neutral, while it could conceivably add to the harm already identified above with regard to the Green Belt and its openness.

Other considerations

19. The Council and the appellants agree that there is a deficiency in the housing land allocation for the Borough and also that there is a need for affordable housing. In these circumstances the provision of 6 houses on the appeal site would be of some benefit. However, such a small provision would mean that the benefit would be only limited. In addition, whilst the application details refer to the proposal that 4 of the houses should be affordable, there is no guarantee that such provision would, in practice, materialise without the use of a valid Section 106 Agreement between the parties, and such a document does not appear to exist.
20. Paragraph: 010 Reference ID: 21a-010-20190723 of the government's Planning Practice Guidance document (PPG) states that a 'negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency'.
21. Without a signed Section 106 agreement relating to the provision of affordable housing, I have concerns that any potential benefit of having such housing on the site may not result, and I do not consider that the use of a negatively worded condition would be appropriate in this case.
22. In conclusion on the matter of housing supply and affordable housing, I accept that the provision of 6 houses would be of some limited benefit, given the shortage of housing land supply in the Borough. However, given the small scale of the proposal, I can afford the benefit only moderate weight. With regard to the potential provision of affordable housing, without a signed Section 106 agreement I do not consider that it is possible to treat this matter as a definitive and guaranteed benefit.

Other Matter

23. Paragraph 92 of the Framework indicates that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of, amongst other things, open space, to enhance the sustainability of communities and residential environments. Policy OS3 of the Council's Development Plan Document (DPD) apparently requires provision of open space to relevant standards on all developments of more than 5 dwellings.

This issue is normally covered by means of a legal agreement such as a planning obligation and no such agreement exists. I therefore have similar concerns on this issue as I had with regard to the lack of an obligation in the matter of affordable housing. Without such an agreement, it is likely that the proposal would fail to comply with Policy OS3 of the DPD.

Conclusion

24. In conclusion, I find that the considerations put forward by the appellant, including matters relating to visual amenity and matters of housing and affordable housing, do not clearly outweigh the harm to the Green Belt and other harm that would be caused by the proposal, and that there are, therefore, no very special circumstances to justify this inappropriate development. Accordingly, I dismiss this appeal.

J D Westbrook

INSPECTOR