



Appeal Decision

Site visit made on 12 November 2020

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2021

Appeal Ref: APP/G2245/W/20/3248975

Land east of Forge Lane, Horton Kirby, Dartford, DA4 9DP.

- 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 T Billings on behalf of FC Stark Limited against the decision of Sevenoaks District Council.
 - The application Ref 19/03567/FUL, dated 23 December 2019, was refused by notice dated 5 March 2020.
 - The development proposed is described as erection of five dwellings, creation of vehicle access and provision of associated parking, landscaping and private amenity.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The appeal site address stated on the Appeal form and on the Council's decision notice, delegated report and correspondence is "*Land south of The Red Barn, Stack Road, Horton Kirby, Kent, DA4 9DP.*" Conversely it is described as "*Land East of Forge Lane, Horton Kirby, Dartford, DA4 9DP*", on the application form and submitted drawings. As the site primarily fronts onto Forge Lane and the proposed development would have access off Forge Lane, I have used the address given on the application form in this decision.

Main Issues

3. The main issues are:
 - a) Whether the proposal amounts to inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy.
 - b) If the proposal amounts to inappropriate development in the Green Belt, the effect of the proposal on the openness of the Green Belt.
 - c) If the proposal amounts to inappropriate development, whether any 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

Whether the proposal amounts to inappropriate development in the Green Belt for the purposes of the Framework and development plan policy.

3. The Framework states that within the Green Belt inappropriate development should not be approved except in very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt and substantial weight should be given to any harm to the Green Belt. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt amounts to inappropriate development, other than various stated exceptions. This includes limited infilling in villages, although the terms 'village' and 'limited infilling' are not defined. They are effectively a matter of fact and planning judgement.¹
4. Policy L07 of the Sevenoaks Local Development Framework Core Strategy (CS), states that limited infilling and redevelopment of a small scale will be permitted within the defined confines of Horton Kirby. The council considers that this policy is not relevant to the proposal because the application site is located outside the defined confines of the village. The appellant acknowledges this conflict although considers that the proposal complies with the objectives of CS Policy L07. Also, that the weight to be attributed to this policy should be significantly reduced because the council has acknowledged that it is unable to meet its development needs within settlement confines.
5. Although the appeal site falls just outside the defined confines of the settlement, CS Policy L07 identifies Horton Kirby as a rural settlement where infilling can take place. In addition, the term 'village' for the purposes of paragraph 145 e) of the Framework is not necessarily the same as the settlement boundary. Accordingly, I find that CS Policy L07 of the CS is relevant to the consideration of the proposal.
6. To determine whether a site lies within a village is subjective and site specific, taking account of factors including the number of buildings or properties that are grouped together, their inter-relationship and spacing, the facilities and services available and the juxtaposition of the site with surrounding buildings and any open land beyond. Similarly, 'limited' and 'infilling' are essentially a question of fact and judgement, taking account of the characteristics of the site and its surroundings, including factors such as the grouping of buildings, their inter-relationship and spacing, the facilities and services available and the juxtaposition of the site with surrounding buildings and the open land beyond.
7. The Sevenoaks Supplementary Planning Document: Development in the Green Belt (SPD) was formally adopted in February 2015. Amongst other things it provides additional information to assist with the interpretation and implementation of policy L07 of the CS. As such, whilst the SPD does not form part of the Development Plan, it is a material consideration that can be given some weight, in accordance with its consistency with the Framework and more recent case law.

¹ Julian Wood v SSCLG and Gravesham Borough (2015) Paragraph 4.3.6 of the appellant's statement

8. The SPD defines limited infilling within the Green Belt as the completion of an otherwise substantially built up frontage by the filling of a narrow gap normally capable of taking one or two dwellings only. A substantially built up frontage is defined as an otherwise continuous and largely uninterrupted built frontage of several dwellings visible within the street scene. Regarding the edge of settlements with Green Belt boundaries, such as Horton Kirby, it advises that where a change of character is not apparent between the defined settlement and development within the adjoining Green Belt, infill development may be appropriate provided it does not compromise the purposes of the Green Belt.
9. In addition to this, infilling is defined in the Collins Dictionary as "*the act of closing gaps, etc, in something, such as a row of buildings.*"
10. The appeal site comprises an irregular shaped field, which currently appears to be unused. It is located adjacent to the junction of Jacobs Lane, Forge Lane, Skinney Lane and Stack Road. The site adjoins the garden boundaries of several properties in Churchill Road and Forge Lane to the south, which form a clear physical boundary to the edge of the built-up area of the village. To the east and north the appeal site adjoins the open countryside and to the west is a school playing field, enclosed by a traditional hedgerow. Immediately to the northeast of the appeal site is a former agricultural building which is currently being converted to a dwelling. Notwithstanding this, it retains the form and appearance of an agricultural building and is accessed via Stack Road, which is a private narrow rural access road.
11. In views from the adjacent lanes the site appears as an integral part of the countryside, albeit on the edge of the settlement. It contributes to the rural character and appearance of Jacobs Lane, Stack Road and Skinney Lane, as well as the rural setting of the village. The character and appearance of the appeal site is quite distinct from the defined settlement edge to the south, which has been excluded from the Green Belt.
12. For these reasons, whilst it is accepted that the site is located in an accessible location in relation to village services and facilities, I find that the appeal site is located on the edge and just outside the village, rather than within it.
13. The appeal site is clearly identifiable as a small enclosed field within the countryside, just outside the settlement. It has a frontage of some 45 metres and there are no buildings to the north of the site, beyond Stack Road. Stack Road itself is a narrow rural road, that relates visually and in terms of use to the surrounding countryside rather than the built-up area of the village.
14. The former agricultural building to the northeast sits on its own, fronts onto Stack Road and is set back from Forge Lane, facilitating open rural views out of Forge Lane and along Skinney Lane. This building's agricultural character and appearance are reinforced by the open countryside in which it sits, including the appeal site.
15. As a consequence, I find that, irrespective of the relatively modest size of the proposal, due to the character and location of the appeal site, together with its juxtaposition with existing buildings and the open countryside the proposal would not amount to infilling.
16. The appellant has referred to two appeal decisions and a planning approval for housing developments in the Green Belt. None of these examples are directly

comparable to the appeal proposal. In particular, with the scheme at Chiddingstone Causeway the site was bordered on both sides by development fronting the highway and by buildings to the rear. Collectively these decisions serve to highlight the need to individually assess whether a proposal amounts to limited infilling within a village based on fact and judgement.²

17. I conclude that the proposal would be inappropriate development, as described in paragraph 145 e) of the Framework.

The effect of the proposal on the openness of the Green Belt.

18. The proposed development would be located adjacent to the junction of Forge Lane, Spinney Lane, Jacobs Lane and Stack Road. The proposed two storey terrace would be both visually prominent and would have an enclosing impact on views into and out of the village and across the appeal site.
19. The proposed detached dwellings towards the rear of the site would intrude into the open views over the boundary hedge and towards the open and expansive landscape. As a result, the proposed buildings would materially detract from the openness of the site and the Green Belt. The proposed access and parking area would similarly be visible from Forge Lane, where their combined presence and use would further detract from the spatial and visual openness of this part of the Green Belt.
20. Having regard to the relatively modest size of the development and its location adjacent to the village I find that the level of harm caused to the openness of the Green Belt by the proposal would be moderate.
21. For these reasons I conclude that the proposal would result in moderate harm to the openness of the Green Belt. As stated in the Framework, any harm to the openness of the Green Belt, together with the harm caused by the inappropriateness of the proposed development must be given substantial weight.

Other considerations

22. The appellant has cited the concerns raised by the appointed Inspector when they found the draft Local Plan not to be sound. The concerns include matters relating to the Council's Green Belt Assessment; sustainability appraisal; housing figure justification; and the deliverability of various housing allocations. Notwithstanding this, as pointed out by the appellant, the Council's Local Plan evidence base remains relevant and demonstrates a need to release Green Belt Land. Against this the Council has confirmed that the Local Plan's Examination Inspector's decision has been challenged, although the timing of the outcome of this is unknown.
23. The Council has acknowledged that it does not have a five year supply of deliverable housing sites and has not disputed the level of shortfall identified by the appellant, which is significant at just 1.52 years. In addition, the Council has not met its housing delivery requirements between 2016 and 2019, delivering just 71% of that required.

² Appeals reference: APP/B3438/W/18/3214689 & APP/M1520/W/20/3246788 and planning permission 19/00701/FUL.

24. The proposal would result in the provision of 5 No. two and three bedroom houses and would thus make a very modest contribution to the supply of housing in the district. Although it is not stated that the dwellings would meet any specific identified local need. In view of the uncertainty about the timing of the emerging Local Plan and the identified housing shortfalls I give considerable weight to the modest contribution the proposal would make to the supply of housing in the district.
25. The proposed dwellings would be located within easy walking and cycling distance of a range of local community services and facilities, which the occupiers of the proposed dwellings would likely support. In addition, the construction of the development would provide employment, albeit for a temporary period. In these ways the proposal would support the economic and social objectives of sustainable development and would comply with various policies in the Development Plan and the Framework. I give a modest amount of weight to this.
26. It is acknowledged that whilst the Council has identified harm due to the inappropriateness of the development and its impact on the openness of the Green Belt, no harm is identified in relation to various accessibility, highway, design and environmental matters. The absence of harm in these matters is given neutral weight.
27. Various concerns relating to the proposal have been raised by the Parish Council and local residents.
28. In view of the distance between the proposed dwellings and the existing dwellings in Forge Lane and Churchill Road, I consider that the proposed development would not have a materially adverse impact on the living conditions of local residents due to visual impact, privacy, daylight, sunlight or noise and disturbance. Property values are not a planning consideration and possible damage to private property is a private matter.
29. The density of the proposed development and the external materials to be used are consistent with the existing nearby developments in the village. Drainage and the maintenance of the overhead cables are matters that would be dealt with under other legislation and the maintenance of the land within the application site could be dealt with by condition. It is noted that no concerns have been raised by the District Council or the County Council relating to the provision of local services, or fire safety.
30. It is also noted that the County's Highway and Ecology sections have been consulted, along with the Council's Environmental Health Officer. They have raised no objections in relation to highway safety, parking, biodiversity and land contamination. I have no reason to come to a different view and acknowledge that the proposal complies with a range of development plan policies and parts of the Framework which deal with them.

Planning Balance and conclusion

31. Both parties agree that the Council cannot demonstrate a five year supply of deliverable housing sites. Thus, CS Policy L07, the most relevant important policy for determining this application is out of date and it is therefore

necessary to consider the proposal against paragraph 11 d) of the Framework, which relates to the presumption in favour of sustainable development.

32. Paragraph 11 d) i) of the Framework and footnote 6 identify land designated as Green Belt as a protected area. Consequently, in accordance with paragraph 11 d) i) the application of policies within the Framework provide a clear reason for refusing the development proposed. Thus, even though the Council is unable to demonstrate a five year supply of deliverable housing sites, the 'tilted balance' is not engaged and the presumption in favour of sustainable development in paragraph 11 of the Framework does not apply.
33. Paragraph 143 of the Framework states that inappropriate development is, by definition harmful and should not be approved except in very special circumstances. In addition, it would lead to a loss of openness. Substantial harm should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by way of inappropriateness, and any other harm from the proposal, is clearly outweighed by other considerations. I find that the other considerations advanced by the appellant in this particular case, do not clearly outweigh the identified harm. Consequently, the very special circumstances that are necessary to justify the proposed development do not exist. The proposal would conflict with CS Policy L07 and the Framework.
34. For the above reasons, the appeal is dismissed.

Elizabeth Lawrence

INSPECTOR