



Appeal Decision

Site visit made on 11 December 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Appeal Ref: APP/H2265/W/20/3258311

Wyke Lodge, London Road, Ryarsh, West Malling, ME19 5AS

- 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 Tony Searles against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/20/00864/FL, dated 23 April 2020, was refused by notice dated 6 July 2020.
 - The development proposed is two new semi-detached three bedroom dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The site is located in the Green Belt, so the main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - ii) The effect on the openness of the Green Belt; and
 - iii) 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 required to justify the proposal.

Reasons

Whether Inappropriate Development

3. Policy CP3 of the Tonbridge and Malling Core Strategy 2007 (Core Strategy) states that National Green Belt policy will be applied to new development in this part of the Borough. This is currently set out in the Framework, which states that new buildings are inappropriate in the Green Belt. However, one exception to this is limited infilling in villages (paragraph 145 (e) of the Framework). Another is limited infilling or 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 (paragraph 145 (g) of the Framework).
4. The site comprises a gap in a built-up frontage within a small cluster of buildings surrounding the A20: a major thoroughfare through this part of Kent.

The proposal would fill in the gap with similar development to that found on each of its sides. It would meet the definition of limited infilling.

5. However, this small cluster of buildings is surrounded by countryside. On inspection, they appear as linear development around the A20. They do not appear to have developed a collective identity as a village. There are services and facilities within walking distance of the site in West Malling, but there are fields in the intervening space which extend to the verge of the A20, providing strong visual and physical separation. Consequently, on the ground the site does not form part of West Malling. These considerations lead me to the view that the site is not in a village, so the exception set out in paragraph 145 (e) of the Framework does not apply.
6. It is common ground that the site comprises previously developed land. However, in visual and spatial terms it currently appears as an open plot of land that sits between existing buildings. There are a few shed style structures currently clustered at the end of the site and some hardstanding, but this existing development does not amount to any significant height or volume in views on to and around the site.
7. By contrast the proposal would result in the construction of a 2 storey building comprising two semi-detached houses. Because of its significant height, volume and forward positioning, it would be a more prominent and bulky feature in views from the adjacent road, significantly reducing the current openness of the site when viewed from this important public thoroughfare. Consequently, the proposed development would have a greater impact on the openness of the Green Belt than the existing development on the site.
8. On the evidence before me, the proposal would not contribute to meeting an identified affordable housing need. For the reasons given above, it would not meet the openness test and therefore fails to meet the terms of the exception set out in paragraph 145 (g) of the Framework. It follows that the proposal amounts to inappropriate development in the Green Belt. The Framework directs that such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

9. I have considered the effect on the openness of the Green Belt in my reasoning above. The height, bulk and prominent siting of the proposed building in relation to the road means that there would be a loss of openness to the Green Belt, when compared against the existing situation. I attach significant weight to the harm that would arise, in consequence.

Other Considerations

10. Planning Permission has recently been granted for a single dwelling on the site, by the Council. However, the approved plan provided by the appellant shows a single storey building, with a shallow pitched roof. What is now being proposed represents a greater scale of development, particularly in terms of height.
11. It is argued that the approved building could be built, and then extended under permitted development rights to create a building of a similar or greater size to the appeal proposal. However, as the building in question does not yet exist, the probability of a future owner extending it in the suggested manner can only be regarded as a theoretical prospect. The evidence before me does not

demonstrate either that there is a real prospect of such a scenario occurring, nor that the resultant development would be more harmful than the appeal proposal in terms of its effect on the Green Belt. These arguments do not amount to a convincing justification for the proposed development.

12. There was an earlier appeal decision for similar development in 2017 but this was dismissed¹. This was an outline proposal. The Inspector concluded that it would amount to inappropriate development in the Green Belt, with harm to the openness of the Green Belt. The same issues arise with this detailed scheme. This previous appeal decision does not add any weight in support of the proposal.
13. The appellant argues that the Council cannot demonstrate a 5-year housing land supply, which the Local Planning Authority acknowledge. In the context of this shortfall of housing supply, the proposal would deliver two additional housing units, with associated economic and social benefits. It would provide a good standard of living accommodation and is acceptable in all other respects, complying with other relevant planning policies and attracting some local support. This is a consideration that weighs in favour of the proposal, attracting moderate weight.

Planning Balance and Conclusion

14. The proposal is inappropriate development in the Green Belt and substantial weight should be given to this harm. It would also result in a loss of openness to the Green Belt, to which I attach significant weight. Whilst the provision of additional housing attracts moderate weight in favour of the proposal, it is not sufficient to justify the proposal. As such, there are no other considerations that would constitute the very special circumstances necessary to justify inappropriate development in the Green Belt. The proposal conflicts with policy CP3 of the Core Strategy and the Framework which seek, amongst other things, to avoid inappropriate development in the Green Belt and preserve its openness.
15. Whilst it has been acknowledged the Council cannot demonstrate a 5-year housing land supply, the tilted balance as set out in paragraph 11 d ii) of the Framework does not apply. This is because there are policies in the Framework that protect areas of particular importance, in this case land designated as Green Belt, that provide a clear reason for refusing the development proposed. These have been identified in my reasoning, in this decision.
16. Overall, the proposal conflicts with the development plan and there are no other considerations, including National Planning Policy, that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR

¹ APP/H2265/W/17/3168487