



Appeal Decision

Site Visit made on 4 January 2021

by Ian Radcliffe BSc(Hons) DMS MCIEH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2021

Appeal Ref: APP/X0415/W/20/3258242

Land adjacent to and south of 1 Greencroft Cottages, Mount Nugent, Bellingdon, Chesham, Buckinghamshire HP5 2XJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Hemsley against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/19/4462/OA, dated 20 December 2019, was refused by notice dated 24 February 2020.
 - The development proposed is 2 No new 4 bedroom detached houses.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was determined by Chiltern District Council. On 1 April 2020 the Council merged with other district councils in the county. As a result, the relevant local planning authority for the appeal site is now Buckinghamshire Council and I have dealt with the appeal on this basis.
3. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plan that has been submitted into account only insofar as it is relevant to my consideration of the principle of the proposed development on the appeal site.
4. The Council's second reason for refusal of the application related to the failure to submit an ecological study. The appeal site is a garden laid mainly to lawn and is surrounded by a hedge. Given that the Council has not provided any evidence as to why it believes protected species could be present on such a site I am not persuaded that there is a reasonable likelihood that such species are present. As a result, an ecological survey is not justified. Subject to any work to the hedge not disturbing nesting birds, the proposed development would therefore comply with policy CS24 of the Core Strategy for Chiltern District which seeks to conserve biodiversity.

Main Issues

5. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework ('the Framework');
 - the effect of the proposal on the openness of the Green Belt; and,

- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development

6. 1 Greencroft Cottages and the appeal site, which is its side garden, are located within the Green Belt. The Framework contains the Governments' planning policies for England and is therefore an important material consideration. Paragraph 143 of the Framework advises that inappropriate development in the Green Belt is by definition is harmful to it. Paragraph 145 of the Framework advises that limited infilling in villages is not inappropriate development.
7. Policy GB2 of the Chiltern District Local Plan ('Local Plan') supports limited infilling. However, as it only supports limited infilling in certain parts of villages within the defined settlement boundary as identified, for example, in policy GB4, it is significantly more restrictive than the Framework and so is only partly consistent with it.
8. Policy GB4 of the Local Plan defines limited infilling as 'the construction of one or two dwellings in a small gap in an existing row of dwellings and other substantial buildings which forms an otherwise fully developed frontage to a road'.
9. The Framework does not define limited infilling. However, case law¹ indicates that where words are not defined by the Framework they should be given their ordinary objective meaning. The Cambridge English dictionary defines infill as the development of new houses, business buildings, etc on land between other buildings in already developed areas.
10. The house at No 1 is at the southern end of a row of closely spaced dwellings within the village of Bellingdon identified by the Local Plan as suitable for infill development. As the side garden which forms the appeal site is beyond this row of buildings it does not benefit from this designation.
11. The appeal site, lies outside the settlement boundary for the Bellingdon defined in the Local Plan whilst the house lies within it. The house is at the southern end of a row of closely spaced dwellings identified by the Local Plan as suitable for infill development. As the side garden which forms the appeal site is beyond this row of buildings it does not benefit from this designation.
12. Instead the appeal site, which on the ground lies within the edge of the village and forms its southern limit on the eastern side of the road, forms part of the gap, slightly in excess of 100 metres, that separates the built form of Bellingdon from the suburban edge of Chesham to the south. Development within this gap is limited to small outbuildings on the appeal site hidden from public view behind a tall boundary hedge and, beyond the edge of the village towards the centre of the remaining space, two agricultural buildings, one smaller than the other, within a field. The gap is therefore generally open with only sporadic development within it and in a very real sense provides a physical separation between the linear development of Bellingdon and suburban sprawl of Chesham. In my judgement, as the site is not tightly enclosed by development

¹ Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin)

on both sides the development of two detached houses on it would not constitute infill development.

13. The proposal would therefore not constitute limited infilling in a village. It would therefore be inappropriate development contrary to paragraph 145 of the Framework and policy GB2 of the Local Plan. Such development would, by definition, be harmful to the Green Belt as described in paragraph 143 of the Framework.

Openness

14. Paragraph 133 of the Framework advises that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. It also advises that the essential characteristics of Green Belts are their openness and their permanence.
15. Although the appeal site has two outbuildings on it they are limited in size and below the height of the tall boundary hedge. As a result, in public views from the road and the public right of way that approaches the site from the opposite side of the road and wraps around its rear, the site is open and free of built development.
16. The erection of a pair of detached, two storey, four bedroom houses with off road parking would have a significant adverse effect on openness which would be readily visible above the height of the boundary hedge and along the accesses created to each plot. The proposed scheme would urbanise the site and leave such a small gap between development associated with Bellingdon and Chesham that the two settlements would appear to merge into one another. The significant harm caused could not be overcome by the control that could be exerted at reserved matters stage or by the use of conditions.
17. In support of the appeal reference has been made to a previous permission the Council granted for an infill house in Chartridge (ref CH/2017/1786/FA). However, in that case the site was located in the centre of the village rather than at its edge and so, unlike in the appeal before me, the proposal would not have resulted in urban sprawl or had the effect of merging one settlement into another. In granting permission for that development and refusing permission for the appeal proposal, the Council therefore did not act inconsistently. As a result, reference to this permission has not altered my findings in relation to inappropriateness or openness.

Other Matters

Access

18. The highway authority has no objection to the proposed accesses to each dwelling on the basis that they would be sufficiently wide and would have adequate visibility splays. I have no reason to disagree with those conclusions.

Other considerations

19. I have found that the proposal would be inappropriate development in the Green Belt and thus should not be approved except in very special circumstances. It is therefore necessary to consider the other considerations put forward in favour of the appeal, to determine whether there are any material considerations which would amount to very special circumstances that would outweigh the harm by reason of inappropriateness, and the harm that I have identified to openness.

Housing supply

20. The appellant states, and this has not been contested by the Council, that the Council only has a 2.48 year housing land supply. A substantial shortfall therefore exists against the 5 year supply of sites sought by the Framework. Paragraph 59 of the Framework seeks to significantly boost the supply of homes and government publications proposing changes to increase the delivery of housing and consulting on changes to planning policy to this effect have been published². However, the benefit of the two extra units proposed would be small and would make little difference to the overall supply of housing. As a result, I attach only moderate weight to this consideration in favour of the appeal.

Chiltern and South Bucks Local Plan

21. A Chiltern and South Bucks Local Plan was in the process of development. Amongst other matters it proposed the inclusion of the appeal site within the within the defined settlement boundary for Bellingdon and proposed the release of Green Belt land for the development of 5,200 dwellings. However, this plan has now been withdrawn. As a result, it is not a consideration of material weight in this appeal.

Small and medium housing sites

22. Paragraph 68 of the Framework recognises that small and medium sites can make an important contribution to meeting the housing requirement of an area and states that great weight such be attached to the benefits of using windfall sites. Indeed, small sites represent the majority of housing completions in the area. Due to the harm though identified to the Green Belt the appeal site is not a 'suitable site' as required by paragraph 68 c). I therefore attach little weight to this consideration in favour of the appeal.

Services and facilities within the village

23. Bellingdon has some facilities such as a village hall, church playground and children's nursery which future occupants of the proposed dwellings would be able to access without leaving the settlement, thereby reducing the need to travel. However, as this range of facilities is very limited and insufficient to meet the day today needs of future residents I attach little weight to this consideration in favour of the proposal.

Other appeal decisions

24. An appeal decision³ relating to a site in Essex has also been referred to. In that decision the Inspector found that the shortage in housing land supply and lack of clear prospect that this would be addressed meant that planning permission should be granted. In that case though, the so called tilted balance in paragraph 11 d) ii of the Framework applied. By virtue of the preceding part of that paragraph, and the proposal's conflict with the Framework's Green Belt policy, the tilted balance does not apply in this case. The two cases therefore are materially different and this decision is therefore not a consideration of material weight in favour of the appeal.
25. Various other appeal decisions have been referred to by the appellant. The Inspectors in those instances would have exercised their judgement on the evidence in relation to that particular case. I have similarly used my judgement in respect of the evidence before me. The fact that permission was granted for

² White Paper 'Planning for the Future', 'Consultation on changes to planning policy and regulation'

³ Ref APP/Z1510/W/20/3251952

housing on these other sites is therefore not a consideration of material weight in favour of the proposal.

Conclusion

26. The proposal represents inappropriate development, which by definition, would be harmful to the Green Belt. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt. I have also found that it would cause material harm to openness. Clearly therefore, the degree of harm caused would be significant and I attach substantial weight to the totality of harm caused.
27. I find that the other considerations put forward by the appellant do not clearly outweigh the harm identified and thus the very special circumstances necessary to justify the development do not exist.
28. As such the proposal would be contrary to paragraph 143 of the Framework. Given my finding in relation to policy GB2 in paragraph 6 of this decision, I attach only moderate weight to the degree to which the proposal conflicts with policy GB2. Nevertheless, whilst there is a substantial shortfall in the housing land supply, I conclude that the proposal would still be in conflict with the development plan considered as a whole.
29. At present though the Council cannot demonstrate a five year housing land supply. In such circumstances paragraph 11 d) of the Framework advises that the policies that are most important for determining applications, such as policy GB2, are out of date and that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. The Green Belt policy of the Framework provides that to be the case here. The proposal therefore does not represent sustainable development. It is contrary to the development plan and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan.
30. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector