



Appeal Decision

Site Visit made on 26 January 2021

by S M Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2021

Appeal Ref: APP/M3645/W/20/3259742

Orchard Cottage Farm, Red Lane, Limpsfield RH8 0RT

- 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 & Mrs Taylor against the decision of Tandridge District Council.
 - The application Ref TA/2019/976, dated 2 May 2019, was refused by notice dated 17 April 2020.
 - The development proposed is demolition of existing commercial buildings and erection of four bungalows with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant provided an amended plan which varied the massing and layout of the 4 dwellings. The Council made preliminary comments on this scheme in its appeal statement but has not had an opportunity to fully consider these revisions or consult upon them. I have therefore determined the appeal on the basis of the plans listed on the Council's decision notice.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - its effect on the character and appearance of the area;
 - its effect on the supply of employment land in the district;
 - its effect on biodiversity and protected species;
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations to amount to the very special circumstances necessary to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is in the Green Belt. It is a large L-shaped parcel of land between Red Lane and the Oxted to Edenbridge railway line. The southern part of the site is open fields and paddocks, beyond which is open countryside. The northern part of the site is occupied by a collection of buildings, some of which are sited

immediately adjacent to the site's northern boundary. The larger buildings are towards the eastern end of the site. They are all served by a rough concrete track which provides access from Red Lane. There is a dispute between the parties about the lawful use of some of the buildings. However, that is not a matter for me to address in the context of this appeal. Suffice it to say that the site is in mixed use with an element of commercial activities.

5. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies, adopted 2014 (Local Plan) states that inappropriate development is, by definition, harmful to the Green Belt and will normally be refused. Proposals involving inappropriate development will only be permitted where very special circumstances exist. This reflects paragraph 143 of the Framework. Policy DP13 of the Local Plan sets out the Council's approach to the assessment of buildings in the Green Belt. This is consistent with paragraph 145 of the Framework which states that the construction of new buildings should be regarded as inappropriate, subject to a list of specific exceptions.
6. The only exception which is potentially relevant to this case is G which permits the partial or complete redevelopment of previously developed land. However, this is subject to the proviso that the proposal would not have a greater impact on the openness of the Green Belt and the purpose of including land within than the existing development. The essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development and a proposal may affect openness both spatially and visually.
7. The footprint of the existing collection of buildings is largely contained within the northern and eastern sides of the site which limits their effect on openness. They are of minimal architectural merit and the remainder of the site is open and undeveloped. Regardless of their use, their appearance is typical of buildings associated with rural or agricultural enterprises.
8. The proposal seeks to demolish all these buildings and replace them with 4 dwellings. Although I have no details of their precise footprints, the layout means that they would be spread over a larger area of the site. The appellant suggests that the volume would be reduced by 6.3%. However, this would be a marginal change and would be visually more harmful arising from the redistribution of the built form over the site. The outer 2 dwellings would occupy part of the site that is currently open and undeveloped. The scheme would also introduce associated domestic features including areas of hardstanding, boundary fences and hedges, parked vehicles and gardens with accompanying paraphernalia, as each dwelling would be established within its own plot.
9. Even though the buildings alongside the northern boundary would be removed, the existing track would have to be upgraded to provide adequate access to the group of dwellings. This would be a further suburbanising feature and would be more visually prominent than the existing track and areas of hard surfacing, even if constructed of permeable materials. This combination of factors would result in a loss of openness across the appeal site as a whole, leading to both spatial and visual harm to the Green Belt.
10. Even if I was to consider the proposal amounted to a partial or complete redevelopment of previously developed land, as defined in the glossary of the Framework, it would have a significantly greater impact on the openness of the Green Belt than the existing development. I therefore conclude that the proposal is inappropriate development. It would conflict with national and local policy to protect the Green Belt and would fail to safeguard the countryside from encroachment.

Character and appearance

11. The appeal site is in countryside which the Core Strategy has designated as an Area of Great Landscape Value (AGLV) due to its proximity to the Surrey Hills Area of Outstanding Natural Beauty (AONB).
12. The existing buildings are not attractive. However, they have a rural character and are not at odds with their setting or surroundings. They are informally laid out and appear to reflect their agricultural origins. Those that are sited close to the northern boundary are unobtrusive in the landscape due to the backdrop of mature trees. By contrast the proposal would introduce a small cul-de-sac with dwellings regularly spaced along it, each served by a separate driveway and parking area. This type of layout is suburban in character and would intrude into the paddocks and fields that surround the existing buildings. The scheme would be read as an extension to the settlement of Limpsfield, although separated from the existing development by Red Lane. These are fundamental issues relating to the layout of the proposal, its relationship with the existing settlement and with the surrounding countryside. These matters cannot be addressed by the detailed design of the scheme as a series of timber clad bungalows.
13. Consequently, the proposal would significantly erode the rural and verdant appearance of the area to the east of Red Lane. This would be harmful to the distinctive character and appearance of the area, contrary to Policy CSP21 of the Tandridge District Core Strategy 2008 (Core Strategy), which seek to protect the District's distinctive landscape.

Supply of employment land

14. The commercial use of this site appears to be limited, given the uncertainties associated with the lawful uses of the buildings. The buildings are not in good condition and are unlikely to be suitable for a wide range of commercial activities without significant investment. The access may be adequate for small vehicles but would be unsuitable to serve development that generated movement by large vehicles or a significant increase in traffic movements. For the site to be used successfully improvements would be required to the access. The contribution that the site currently makes to the supply of employment land in the district is therefore small.
15. Nevertheless, Policy CSP 22 of the Core Strategy expresses support for the use of buildings in the Green Belt for commercial purposes, subject to environmental, farm viability, traffic and amenity considerations. There was no evidence that attempts had been made to address these constraints or market the site for commercial or industrial uses as required by Policy DP4 of the Local Plan.
16. I therefore conclude that the proposal would result in the unacceptable loss of a site which could be used for employment purposes, contrary to the aims of the development plan to support the locally based economy.

Biodiversity and protected species

17. All species of bats are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). Circular 06/2005 states that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. It goes on to state that '*it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established **before** (my emphasis) planning permission is granted*' (paragraph 99).

18. In the absence of appropriate surveys to address this matter, I must adopt a precautionary approach as I cannot be certain that the development would not result in harm to protected species, including bats. This is not a matter that could be addressed by the imposition of conditions.
19. I conclude that the proposal could adversely affect biodiversity and protected species. It would fail to comply with the requirements of the Habitats Regulations and would be contrary to Policy CSP17 of the Core Strategy and Policy DP19 of the Local Plan which seeks to protect biodiversity and will only permit development where it has been demonstrated that protected species will not be harmed.

Other considerations

20. As the applications for prior approval for conversion of the existing buildings into residential development have been refused by the Council, this fallback position has not been established. It is therefore not relevant to my determination of the appeal.

Green Belt Balance

21. I have found that the proposal would be inappropriate development in the Green Belt, a matter to which I am required by the Framework to give substantial weight. In addition, I found the scheme would be harmful to the character and appearance of the area and result in the loss of a site which could be used for employment purposes. These matters carry moderate weight. Furthermore, I could not be certain that protected species would not be harmed, a matter of significant weight.
22. I am aware that the Council is unable to demonstrate a five year supply of deliverable housing sites. However, paragraph 11 d) i) states that where the application of policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development the presumption in favour of sustainable development does not apply. Footnote 6 states that land designated as Green Belt is such an area. The test set out in 11 d) ii) therefore does not apply in this case.
23. This leads me to conclude that there are no other considerations that clearly outweigh the harm to the Green Belt and the other harms identified. The very special circumstances necessary to justify the proposal do not, therefore, exist.

Conclusion

24. The proposal is contrary to the development plan and the Framework's policies to protect the Green Belt and for this reason the appeal is dismissed.

Sheila Holden

INSPECTOR