
Appeal Decision

Site visit made on 24 November 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal Ref: APP/X0415/W/20/3257654

Land adjacent to The Burrows, Hog Lane, Ashley Green, Buckinghamshire

- 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 Mrs Joan Penning against the decision of Buckinghamshire Council.
 - The application Ref PL/19/4390/OA, dated 18 December 2019, was refused by notice dated 12 February 2020.
 - The development proposed is 2 new detached houses (4 & 5 bedroom).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 1 April 2020, Chiltern District Council (CDC) merged, along with other Councils, into a new single Unitary Authority called Buckinghamshire Council. Whilst the decision notice was issued by CDC, the authority's new name has been referred to in the banner heading above.
3. The site address of the development used in the banner heading above is taken from the Council's decision notice as it is more concise. This is also the address used by the appellant on the appeal form.
4. Outline planning permission is sought but with access to be considered at this stage.
5. The Draft Chiltern and South Bucks Local Plan, 2036 has been withdrawn by the Council. Accordingly, this has no weight in the consideration of this appeal.

Main Issues

6. The appeal site is located within the Metropolitan Green Belt. Accordingly, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and Development Plan policy;
 - the effect on the openness of the Green Belt; and
 - 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 required to justify the proposal.

Reasons

Inappropriate development

7. Paragraph 145 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt. The exceptions include, at Paragraph 145(e), limited infilling in villages.
8. Policy GB2 of the Chiltern District Local Plan, 1997¹ (LP) states that there is a general presumption against most development with certain exceptions, with limited infilling being listed as one such exemption. However, the policy does only support limited infilling in certain areas, which are outlined by other LP Policies and the parties agree that the site would not fall within any of those areas. Nevertheless, whilst LP Policy GB2 is more restrictive than the Framework it is broadly consistent with the provisions of the Framework relating to Green Belt development and I attach it moderate weight.
9. The Framework does not define a village or what would constitute limited infilling and a High Court judgment² established that it is necessary to consider the facts on the ground. As stated in the Tate judgment³ whether or not a proposal represents limited infilling is ultimately a matter of planning judgment, having regard to factors such as the nature and size of the development, the location of the application site and its relationship to other, existing development adjoining and adjacent to it.
10. There is a clear settlement pattern to Ashley Green with development mostly concentrated around the main road through the settlement, to the south of Two Dells Lane and along the north of Hog Lane. The appeal site does not form part of that, either physically or visually. From the road the site is viewed within the context of more sporadic development and backdrop of views over the wider open countryside to the south.
11. The appeal site is isolated from the linear development to the north of Hog Lane. There is also a substantial gap between the existing dwellings, Ash House and The Burrows, to the south of Hog Lane. The appeal site forms part of this gap, along with some single storey stable buildings which are modest low-level structures, set back substantially from the road and largely hidden from public view behind a tall boundary hedge.
12. There is therefore no built-up frontage, with only sporadic development to the south of Hog Lane. The south of the road has a distinct rural character and signals a clear transition from the more built up development within the village. This change in character is even more apparent after Ash House, and the presence of signage for the village or speed restrictions further west does not alter this.
13. As such, notwithstanding the close proximity of the site to existing development along the north of Hog Lane, the site cannot be considered as forming a gap in an otherwise substantial built-up frontage. When considered 'on the ground' it could not reasonably be considered to be within the built confines of the village or constitute limited infilling.

¹ Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

² Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council (2015) EWCA Civ 195

³ R(Tate) v Northumberland County Council [2018] EWCA Civ 1519

14. The appellant has stated the scheme would mirror the plot widths of existing development on the opposite side of the road. However, as detailed above, the site is physically detached from the linear development opposite. The appeal scheme would be viewed in the context of a rural setting and this does not, therefore, lead me to a different conclusion.
15. The appellant has referenced appeal decisions where the proposed development was considered to constitute limited infilling⁴. The decisions related to sites within different local authority areas and I do not have the full details of those schemes before me. However, as detailed above, whether a scheme represents limited infilling is ultimately a matter of planning judgment and having determined this appeal on its own merits, I have found it does not represent limited infilling.
16. An Inspector in determining a scheme on another site⁵ found that the proposed development was limited infilling, and therefore would not be inappropriate, and as such it was implicit that it would therefore not materially detract from the openness of the Green Belt. As detailed above, this is not the case with the current appeal scheme which I have found to be inappropriate development. These other decisions do not, therefore, lead me to a different conclusion.
17. Consequently, the proposal would not be consistent with the overall objectives of LP Policy GB2, which seeks to manage development in the Green Belt, and I conclude that the proposal would not meet the exception criteria of paragraph 145 (e) of the Framework and would therefore constitute inappropriate development. Paragraph 143 of the Framework states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework is clear that substantial weight should be given to any harm to the Green Belt.

Openness

18. A fundamental aim of Green Belt policy, as set out in Paragraph 133 of the Framework, is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Court judgments, including those referenced by the appellant, have confirmed that there can be both spatial and visual dimensions to openness within the Green Belt.
19. The site consists of paddock set behind a grass verge and mature planting to the road frontage, with an informal access via a steel gate. The land is relatively flat with extensive views over the countryside beyond, and there are glimpsed views of the site from the public footpath to the west. The paddock is enclosed by post and rail fencing and some hedging, though it is devoid of any structures and retains a rural character and appearance.
20. The construction of dwellings on the site would therefore result in built development where there is presently none. The introduction of new and more formalised driveways and buildings would alter the open character of the site and result in encroachment of development into the Green Belt. Although matters of appearance, landscaping, layout and scale are reserved for future consideration, in addition to the 2 dwellings, parked vehicles and domestic

⁴ APP/D2320/W/16/3154595 & APP/G2245/W/16/3142246

⁵ APP/X0415/W/16/3159373

paraphernalia, such as garden furniture and children's play equipment, would inevitably lead to a loss of openness.

21. This would be both visually and spatially harmful and represent a significant intrusion into the openness at the site, and within the Green Belt. I therefore conclude that the development would result in significant harm to Green Belt openness, and I have attached substantial weight to this harm.

Other considerations

22. The Council have acknowledged that they cannot demonstrate a 5year Housing Land Supply and the identified shortfall is significant, so the 2 new dwellings close to local services, facilities and transport links, would therefore be a modest benefit. I recognise the important contribution small sites can make to meeting the housing requirements of an area, though the provision of 2 dwellings could only have a limited benefit in relation to boosting the mix and supply of housing. There would be some economic benefits during construction and from future occupants use of local services. Taken together these benefits would, however, be modest and attract only moderate weight.
23. The provision of sufficient garden area, parking and overlooking could be satisfactorily addressed as part of the reserved matters. However, these matters would have a neutral effect, and therefore do not weigh in favour of the appeal.
24. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. However, paragraph 11 d)i is clear that where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, the presumption in favour of sustainable development does not apply. Footnote 6 to this paragraph includes the Green Belt. As such the presumption in favour of sustainable development is not engaged in this appeal.
25. My attention has been drawn to a previous appeal decision for the site⁶. This was considered against a different Local Plan and considering the time that has passed since that decision, I have attached little weight to it.

Green Belt balance

26. I consider that, individually or cumulatively, the moderate benefits of the proposal, including the 2 new dwellings and the associated economic and social benefits, would be insufficient to clearly outweigh the substantial harm to the Green Belt by reason of inappropriate development, and the significant harm due to loss of Green Belt openness. Consequently, the very special circumstances necessary to justify the proposal do not exist. It would be contrary to LP Policy GB2 and to the Development Plan as a whole, and the Framework.

Conclusion

27. For the reasons given above the appeal should be dismissed.

⁶ T/APP/X0415/A/89/119404/PB

A Denby

INSPECTOR