The Planning Inspectorate

Appeal Decision

Site visit made on 16 February 2021

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2021.

Appeal Ref: APP/G2245/W/20/3258148
Land west of 1 Wood Street, Swanley BR8 7PA

- 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 Mark Hilden against the decision of Sevenoaks District Council.
- The application Ref 20/00662/OUT, dated 5 March 2020, was refused by notice dated 30 April 2020.
- The development proposed is minor intensification of development for two self-build family homes.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   (a) Whether having regard to development plan policy and national policy in the National Planning Policy Framework (the Framework) the proposal comprises inappropriate development in the Green Belt

   (b) The effect on Green Belt openness and purposes

   (c) Whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations

Reasons

3. Policy LO1 of the Sevenoaks Local Development Framework Core Strategy (2011) (CS) seeks to focus development within the confines of existing settlements. Development will only take place where compatible with policies for protecting the Green Belt. CS Policy LO8 relating to the countryside and the rural economy states that the extent of the Green Belt will be maintained and repeats the above Green Belt protection policy.

4. The Council has not cited any Green Belt policy in the decision notice though does refer to a Green Belt Supplementary Planning Document (2015) (SPD) which provides some guidance as to how Green Belt policy is to be interpreted. It refers to policy GB5 of the Sevenoaks Local Development Framework Core Strategy (2011) (CS) which relates to situations where dwellings may have been permitted under very special circumstances or as rural exception schemes. National policy is found in the National Planning Policy Framework (the Framework). Paragraph 145 states that the construction of new buildings

will be regarded as inappropriate development unless they fall within one of the exceptions listed.

5. The appellant contends that the site should be regarded as previously developed land and therefore paragraph 145(g) applies. This exception states that new buildings will not be inappropriate development if comprising limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt where the development would use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

6. The appeal site lies on the edge of a small group of dwellings which is part of, though separated from the main built up area of Swanley village. It consists of a roughly square plot of land that sits above the level of the road, with a raised bank to the front beyond which the main part of the site is covered in loose stones and gravel. There is a small single storey concrete building and adjoining area of hardstanding located in the north east corner of the site. The eastern boundary is marked by a larch lap fence and is adjoined by a single storey dwelling, which is the end property of a row of similar dwellings. The site is otherwise adjoined by farmland.

7. The appellant contends that the site has significant evidence of previous development including of a former building and has services such as water and electricity laid from a former use. I saw on my site visit that there is some evidence of former hardstanding but this is very limited and overall the remains of any such permanent structure has blended into the landscape and is not easily discernible.

8. The Council states that whilst permission was granted for a mobile home and detached garage a number of years ago, there is no record of it ever having been stationed on the site and occupied. The outbuilding on the site appears to have been there over ten years but it is contended that the previous uses were agricultural. Furthermore, there is an outstanding enforcement notice that requires the land to revert back to its 'original condition' which appears to have been mainly grass.

9. On the basis of the above, and in the absence of a lawful development certificate confirming otherwise, it appears to me that the lawful use of the site is agricultural. However, even if it was considered to be previously developed land, and paragraph 145(g) of the Framework was applicable, it is clear that the proposed dwellings would have a greater impact on the openness of the Green Belt than the existing development which comprises only the small outbuilding at the rear of the site. Nor would the proposal comprise limited infilling given that it would involve the construction of two new dwellings on a site where there is currently only a single small building.

10. Whilst the appellant states that the dwellings will be for himself and his family who originate from the gypsy and traveller fraternity, such occupation does not fall within the definition of affordable housing as set out in the Framework. Nor is the appellant suggesting that the proposal should be considered as a rural exception scheme. The proposed development would therefore be inappropriate development in the Green Belt which is by definition harmful and should not be approved except in very special circumstances.

Impact on Green Belt openness and purposes

11. The site currently comprises open land with a small single storey building located towards the rear boundary. The proposed development comprising two family homes would introduce a much greater amount of built development on the site, which would be materially larger than the existing building. This would have a significant impact on the openness of the Green Belt.

12. In terms of the effect on Green Belt purposes, which the appellant has referred to, I consider that purposes c) and e) of paragraph 134 of the Framework are relevant. Contrary to the appellant's view, I consider that the site does lie in the countryside albeit on the edge of a group of dwellings and distinct in appearance from the surrounding farmland. In my view the proposal would result in some encroachment of the countryside by virtue of the built development proposed. In respect of e), whilst the appellant suggests that the appeal site is derelict land, it is not within the context of urban regeneration, therefore there would be conflict with this purpose as well.

13. Overall, I consider that there would be additional harm arising in terms of harm to Green Belt openness and conflict with its purposes.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

14. The dwellings would incorporate a number of sustainable design features including the use of insulated concrete form walls, renewable energy, high levels of insulation combined with the use of heat pumps, EV charging points and heat recovery systems. Whilst such features are in line with energy efficient housing, they do not represent innovative design as such features are sought by national and local policy and are thus of only limited weight.

15. The personal circumstances of the appellant's family, in that they are from the Romany Gypsy fraternity and wish to move into permanent bricks and mortar accommodation so as to consolidate their existing situation whereby the children go the local school and the family has been accepted into the local community, are noted. However, whilst the best interests of the children are a primary consideration, the appellant has been settled in the area for a number of years, and there is no indication as to whether other alternative housing or sites have been considered or are available or suitable. The proposal would, however, contribute to the Framework's aim to boost housing supply, comprising self-build plots with related economic benefits. Overall, these are considerations of moderate weight.

16. Overall, I do not consider that these considerations clearly outweigh the harm that arises as a result of harm by reason of inappropriateness as well as harm to Green Belt openness and purposes, to which substantial weight is given. Therefore, very special circumstances necessary to justify the proposed development do not exist.

Conclusions

17. I therefore conclude that this appeal should be dismissed.

P Jarvis

INSPECTOR