The Planning Inspectorate

Appeal Decision

Site visit made on 17 May 2021

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 MAY 2021

Appeal Ref: APP/M2270/W/21/3268633
Land South of Stockland Green Road, Tunbridge Wells TN3 0TL

- 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 Kot against the decision of Tunbridge Wells Borough Council.
- The application Ref 20/01616/FULL, dated 12 May 2021, was refused by notice dated 9 September 2020.
- The development proposed is for the erection of 2 new build detached dwellings.

Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have used the description of development provided on the Council's Decision Notice which more accurately describes the proposal. I have proceeded accordingly.

Main Issues

3. The main issues are:

- whether the proposal would represent inappropriate development in the Metropolitan Green Belt (Green Belt) having regard to the *National Planning Policy Framework* (the Framework) and relevant development plan policies, and if inappropriate development; the effect of the proposal on the openness of the Green Belt,
- the effect of the proposal on the character and appearance of the surrounding area, including the High Weald Area of Outstanding Natural Beauty (AONB) with respect to planning policy and national policy.
- whether the proposal is in a suitable location for residential development,
- highway safety,
- the effect of the proposal on the surrounding trees, and;
- the effect of the proposal on biodiversity.

Reasons

Inappropriate development

4. The appeal site forms part of a field located in the Green Belt and the AONB which is a parcel of agricultural land that slopes towards Stockland Green Road. The field is accessed via a gateway to the rear of the site next to the dwelling of 'Four Seasons' on the higher section of Stockland Green Road as it slopes up towards Etherington Hill. The field is bordered by hedges and trees and has one centrally located tree. The surrounding area is typified by fields and pastures with some loose-knit traditional style brick and tile development including the dwelling of 'Little Birchetts'. The settlements of Speldhurst and Southborough are approximately 1-3km away.

5. The proposal is to construct a partially sunken two detached x 4 bedroom 'Passivhaus' dwellings with 'rain-gardens' on the site. The timber and render dwellings would have a mix of flat and pitched green roofs and be accessed from Stockland Green Road via a crossover through the existing hedgerow that would be replaced in part by new hedging and trees. There would be two parking spaces and waste bin areas for each dwelling.

6. The Framework sets out clearly in Paragraphs 143-147 that unless an exception can be demonstrated that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except where very special circumstances exist.

7. In this case the Appellant contends that Paragraph 145 (e) of the Framework applies, which says that exceptions include limited infilling in villages. However, the appeal site is an open-style field beyond any recognised settlement boundary. As such, the proposal would be inappropriate development in the Green Belt.

Openness

8. Notwithstanding the partially submerged design, the development would nonetheless be clearly evident across the fields to the front and rear of the site including from the gateway on Stockland Green Road next to 'Four Seasons'. Therefore, although the loss of openness that would be directly attributable appeal scheme would not be great in itself, the proposal would still be overly prominent and have a visual impact on the Green Belt. As such, I conclude that the proposal is inappropriate development that would materially harm the openness of the Green Belt.

Green Belt balance

9. Inappropriate development and harm to openness is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. Paragraph 144 of the Framework requires that substantial weight is given to any harm to the Green Belt. Moreover, 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations to justify the development.

10. The submerged 'Passivhaus' proposal would provide two family homes and be built in natural type materials with green roofs and would be set-back from the road. There would be new soft landscaping to the front of the dwellings, and other sustainable elements would be included in the proposal such as the 'rain-gardens'. I afford this moderate weight.

11. My attention has been drawn to a scheme at Home Farm, Penhurst Road, Bidborough[1]. However, I have little evidence before me that sets out the detail of that case. Accordingly, I give this little weight.

12. The Government attaches great importance to Green Belts, and that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. I have found that the proposal is inappropriate development that would erode the essential characteristics of the openness of the Green Belt. Furthermore, the substantial weight to be given to Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate that very special circumstances exist.

13. Consequently, the proposal does not meet the requirements of Core Policy 2 of the Tunbridge Wells Borough Core Strategy 2010, (TWBCS) and Policy MGB1 of the Tunbridge Wells Borough Local Plan 2006, (TWBLP) which say amongst other things that there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt.

14. For similar reasons, the proposal is contrary to Paragraph 134 (c) of the Framework which identifies five purposes of the Green Belt, one of which is relevant in this case; to assist in safeguarding the countryside from encroachment.

AONB

15. The main parties agree that the proposed development would be in the Speldhurst Wooded Farmland Local Character Area and the AONB, and thus for planning purposes in the countryside. As such, the development must conserve and enhance the landscape and scenic beauty of the AONB as required by Paragraph 172 of the Framework, which aims include that the scale and extent of development within the AONB should be limited; to which I attach great weight.

16. The appeal site is an open plot of land, which in combination with views to the central tree, hedging and the other surrounding trees contributes to the character and appearance of the surrounding area which is typified along Stockland Green Road by an open rural setting with loose-knit and sporadic development.

17. Therefore, while the proposal would be constructed in natural style materials, the development would nonetheless be two relatively large family size dwellings that would necessitate the removal of some of the natural hedging and introduce hard surfacing for car parking, retaining walls and other domestic paraphernalia into this specific area of the AONB where currently there is not.

[1] 15/508259/FULL

18. Indeed, there is substantial scope for the introduction of a range of activities associated with the proposed residential dwellings. For example, waste bins, washing lines, barbeques, sheds, informal play-areas, seating, night-time lighting and so on. As such, the proposal would be an unexpected and intrusive form of development in a rural location where residential dwellings are generally limited.

19. Furthermore, while I acknowledge that there is residential development nearby those dwellings are of a more traditional brick and tile type appearance with pitched roofs. Therefore, the proposal would be incongruous with the character and appearance of the area. Moreover, the intrusive nature and activity associated with the proposal would fail to conserve or enhance the scenic beauty of the AONB.

20. Accordingly, the proposal does not meet the aims of Core Policies 4 and 14 of the TWBCS, and Policies EN1 and EN25 of the TWBLP as supported by the High Weald Area of Outstanding Natural Beauty Management Plan 2019-2024 and the Tunbridge Wells Borough Character Landscape Assessment 2017 which require, when read as a whole, that the Boroughs urban and rural landscapes, including the designated High Weald Area of Outstanding Natural Beauty, will be conserved and enhanced.

21. It follows then that the development is contrary to the requirements of Paragraph 172 of the Framework which requires that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty.

Suitable location

22. Under the terms of the 'Braintree Judgement' (2017), and in respect of Paragraph 55 of the Framework, I acknowledge that the site is not an 'isolated' location in the countryside. Nonetheless, the suitability of the location for residential dwellings should still be considered in respect of access to local services and facilities.

23. As such, while there is a limited number of services and facilities available to the future occupiers of the proposal at the nearby settlements of Southborough and Speldhurst, such as primary schools, small shops and take-away outlets, a more attractive range of day to day services, such as larger shops, secondary schools, restaurants, libraries, public-houses and leisure facilities, as well as a train station and greater employment opportunities can be found in Royal Tunbridge Wells which is somewhat further afield.

24. Therefore, without linking and lit footways, cycle routes, or a regular and convenient bus service, the more local services are likely to be accessed using a private motor vehicle rather than by foot or bicycle, particularly at times of the year when the weather is less clement or at darker times of the day or year. Indeed, the mostly narrow, hedged and sunken-type lanes are likely to be unattractive to, for example, some families taking or collecting young children from school, those with restricted mobility or people travelling alone.

25. As such, notwithstanding that existing residents might choose to travel by private motor vehicles in a similar way to those in more urban environments, and while the Appellant contends that the proposal would not worsen dependency on private motor vehicles, I find to the contrary that the proposal for two x 4 bedroom dwellings is likely to generate additional journeys along Stockland Green Road, that as a result of the nature of the highways in this location would inevitably result in a preference and dependency on private motor vehicles in respect of access to day to day services.

26. Therefore, the proposal is contrary to saved Core Policies 1, 3 and 14 of the TWBCS which say, amongst other things, that sustainable modes of transport, including cycling, walking and the use of public transport will be encouraged to reduce the dependence on private car use.

27. For similar reasons the proposal does not meet the aims of Paragraph 127 (f) of the Framework which says development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Highway safety

28. I noted at my site visit that Stockland Green Lane appears to be well used by motor vehicles and does not have a footway adjacent to the appeal site. As such, traffic emerging from or entering in to the proposed development site would require extended visibility splays to guard against conflict with other motor vehicles or pedestrians travelling along the lane, as confirmed in the submitted Kent County Council Highways and Transport department 'Transport Statement'. Moreover, notwithstanding the Appellants' 'Transport Impact Assessment Report', I have no scheme before me that is acceptable to the relevant highways department. As such, I conclude that the proposal would harm highway safety in this specific location on Stockland Green Road.

29. Consequently, the proposal is contrary to Core Policy 5 of the TWBCS and Policies EN1 and TP4 of the TWBLP which aims include that the traffic generated by the proposal does not compromise the safe and free flow of traffic or the safe use of the road by others, and Paragraph 109 of the Framework that says that safe and suitable access to the site can be achieved for all users.

Trees

30. The evidence before me in respect of technical arboricultural matters related to the proposal is less than ideal. However, I note that the Appellant contends that no trees will be removed as part of the construction. Nonetheless, I noticed at my site visit that in the field to the rear of the appeal site that there is a centrally located mature tree, as well as trees to the fields' perimeter that may or may not include a protected tree. As such, I cannot be certain whether trees will be harmed as a result of the proposal or not, including damage to their root protection areas. Therefore, and in the interests of caution, I conclude that the proposal would be contrary to Core Policy 4 of the TWBCS and Policies EN1 and EN13 of the TWLP which aims include that development will not be permitted if it would damage or destroy one of more trees protected by a Tree Preservation Order, and with Paragraph 170 of the Framework which aims include that planning policies and decisions should contribute to and enhance the natural and local environment.

Biodiversity

31. Paragraph 170 of the Framework requires that developments provide 'net gains for biodiversity'. As such, the Appellant has submitted a 'Preliminary Ecological Appraisal' as well as a 'Biodiversity Enhancement Scheme' as part of his Appeal and contends that the associated biodiversity metric calculation tool has shown that the scheme would result in a 3% net gain in habitat and a 79% increase in hedgerows.

32. However, while garages and an office building have been removed from this scheme, and I cannot be certain whether permitted development might form future additions to the site or not, the fact remains that the proposal would result in development on an open and verdant field where currently there is none, including the removal of some established hedgerows. Therefore, in the absence of any convincing evidence to the contrary, I conclude that the proposal before me would result in a net loss of biodiversity.

33. Accordingly, the proposal is contrary to Core Policy 4 of the TWBCS which requires that opportunities and locations for biodiversity enhancements will be identified, and similarly Paragraph 170 of the Framework which says that planning decisions should minimise impacts on and provide net gains for biodiversity.

Other Matters

34. The appeal site and adjacent land is subject to an 'Article 4' direction. As a result its ownership has been divided in to a large number of individual plots. The direction restricts the erection of any fences or means of enclosure. However, given my findings above I have not considered this matter further.

Planning Balance and Conclusions

35. The main parties agree that the Council cannot demonstrate a five-year housing land supply, as such Paragraph 11 (d) of the Framework is engaged. I acknowledge that the energy-efficient proposal would result in some limited public benefit, i.e. the social and economic benefits associated with the construction and the provision of two new family dwellings to the Councils housing land supply, and that the proposal is for a 'Passivhaus' design in traditional style materials that would be sufficiently distant from the neighbouring dwelling

36. However, Paragraph 78 of the Framework states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. In this case, while the distance to the services of Southborough and Speldhurst are relatively close, the nature and features of the route are such that it means that on balance it is more likely that the future occupiers of the proposed dwelling would choose to make that journey by car rather than by foot. Furthermore, some services such as senior schools and a railway station can only be found further afield at Royal Tunbridge Wells, that in the absence of a directly available bus service would necessitate a journey by car in most instances.

37. As such, the adverse impacts of the proposal, including harm to the Green Belt, AONB, the environmental impact of increased motor vehicle journeys, harm to highway safety, trees and biodiversity I have found above significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development therefore does not apply in this case.

38. The proposed development would conflict with the adopted development plan, and there are no material considerations indicating a decision otherwise than in accordance with it. Consequently, the appeal is dismissed.

J E JOLLY

INSPECTOR