



Appeal Decision

Site Visit made on 11 May 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2021

Appeal Ref: APP/R3650/W/20/3266027

Lion Gate Court, Petworth Road, Witley, Godalming GU8 5QW

- 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 and Mrs Perkins against the decision of Waverley Borough Council.
 - The application Ref WA/2020/1077, dated 25 June 2020, was refused by notice dated 25 November 2020.
 - The development proposed is erection of new dwelling on garden land associated with Lion Gate Court. Use of existing access and construction of three bay garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellants have submitted a revised drawing showing an amended visibility splay. The Council has indicated that it does not consider the submitted details to be of an acceptable standard to assess the scheme. Furthermore, the Council has advised that since this relates to access onto a private road rather than land under the jurisdiction of the highways authority, it would need to consult an independent traffic consultant on the acceptability of the proposals.
3. It is not the role of the appeal process to evolve a scheme. If the appellant considers that amending their application proposals would overcome the Council's reason for refusal, then they should make a fresh planning application. This is therefore not a matter which I can consider as part of this appeal.
4. A referendum on the Witley Neighbourhood Plan (WNP) was held on 6 May 2021. The Council has confirmed that the WNP passed referendum and will shortly be 'made'. I therefore attach full weight to the WNP policies in my decision as it now forms a part of the development plan for the area the appeal lies within.

Main Issues

5. 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 any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on highway safety; and
- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

6. The appeal site is a parcel of land forming part of the garden at the rear of Lion Gate Court, a grade II listed building and detached house fronting Petworth Road. The site lies outside the defined settlement boundary of Witley which runs along its western boundary. It is within the Metropolitan Green Belt.
7. Development along the section of Petworth Road near the appeal site is concentrated on the eastern side of the road with the western side largely undeveloped. It forms a linear pattern comprising houses with long rear gardens and fields and open land beyond. The appeal site is located to the south of an access road leading from Petworth Road to the Witley recycling centre and a Council depot. As part of the rear garden to the host property, it is set back from the main road with a landscape contractor's yard beyond.

Whether inappropriate development in the Green Belt

8. The Framework sets out in paragraph 133 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belts are their openness and their permanence. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. Paragraph 145 sets out that the construction of new buildings is inappropriate within the Green Belt subject to a number of exceptions. Those relevant to this appeal are (e) limited infilling in villages; and (g) 'limited infilling or partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use...which would not have a greater impact on the openness of the Green Belt than the existing development'.
10. Policy RE2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 (LPP1) seeks to protect the Green Belt against inappropriate development in accordance with the Framework.
 - a) *Limited infilling in villages*
11. Neither the Framework nor local plan defines 'limited infilling' or 'villages'. There is no dispute between the parties that Witley is a village. Furthermore, it is accepted that case law¹ has established that limited infilling is applicable to all villages and not just restricted to sites that fall within settlement boundaries identified in local plans. However, in order to be infilling, to my mind a proposal must fill a space or gap between two other buildings or structures whether within a continuous built-up frontage or within built development.

¹ Wood v SoS CLG and another [2014] EWHC 683

12. The appeal proposal is for the construction of a detached dwelling and a detached garage. The proposed development would be behind the linear development along Petworth Road. However, positioned between the host property and a contractor's yard, which is largely open storage, it would not infill a gap between buildings or structures. The recycling centre, whilst positioned towards the north-eastern corner of the site, is separated from it by the access road and boundary vegetation. It does not therefore enclose the site and in this context, the proposal would not amount to infilling.
13. The proposed development, due to its position on the edge of the built up area of the village, would be considered to fall within the village. However, with development to just one side, the proposed development would not fill a gap or space between buildings or structures, either within a continuous built-up frontage or within built development. It would not therefore meet the exception set out in paragraph 145(e) of the Framework.

b) Previously developed land

14. The Framework sets out that land in built-up areas such as residential gardens is excluded from the definition of PDL. The parties dispute whether or not the site is within a built-up area and therefore whether or not it could be considered to be PDL.
15. The appeal site is a domestic garden to a house within the village of Witley. It seems to me that as it forms part of a garden within the built-up frontage of the village along Petworth Road, it would not fall within the scope of PDL. Notwithstanding this, even if the site were to be considered as PDL, its redevelopment would have a greater impact on the openness of the Green Belt than the existing domestic garden due to the introduction of two buildings where there are currently none.
16. I have been referred to caselaw, *Europa Oil and Gas Limited v SSCLG*², in the context of the application of paragraph 145(g). I accept that some level of operational development on PDL may be appropriate without having a greater impact on the openness of the Green Belt than existing development. However, in the proposal before me there would be a substantial change to the character of the site. I discuss the effect on openness in more detail below. It would therefore not meet the exception set out in paragraph 145(g) of the Framework.

c) Findings

17. For all these reasons, I conclude that the proposal would be inappropriate development in the Green Belt. It would conflict with both Policy RE2 and national policy to protect Green Belt. In accordance with the Framework, I attach substantial weight to this harm.

Openness of the Green Belt

18. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework although it is commonly taken to mean the absence of built or otherwise urbanising development. An

² *Europa Oil and Gas Limited v SSCLG* [2014] EWCA Civ 825

assessment of openness requires a consideration of the scale of the development, its locational context and both its spatial and visual implications.

19. The appeal site is an area of undeveloped garden, enclosed by boundary vegetation on two sides and a high wall to its boundary with the access road. This provides some screening. There is no enclosure of the site from the rest of the garden to the host property.
20. Although partially screened by the boundary vegetation and wall, the proposed house and garage would be visible from the surrounding area due to their height and in respect of the garage, due to its proximity to the access road. As such, the proposal would result in a moderate reduction in the visual openness of the area.
21. The proposed house and detached garage would be large structures on the site, which in combination with an area of hard surfacing providing a driveway and vehicle parking space would amount to a more substantial and urbanised form of development on the site. In the context of the clearly defined linear development fronting Petworth Road and the limited development at the rear of these properties, largely confined to modest garden structures and open storage, the addition of large domestic buildings would cause moderate harm to the spatial openness of the Green Belt that extends around the built-up area of the village. In coming to this view, I have had regard to the approach advocated in the judgment in *Euro Garages Ltd v SSHCLG*³.
22. Consequently, I conclude that the development would result in moderate harm to the openness of the Green Belt conflicting with the Framework's aims in that regard. I give significant weight to that harm. Additionally, it would lead to the encroachment of development into the countryside, contrary to one of the five purposes of Green Belt policy, as set out in paragraph 134 of the Framework.

Character and appearance

23. Residential development along Petworth Road and close to the appeal site is characterised by detached houses in a linear pattern surrounded by fields. Some non-residential development is located away from the main frontage development along Petworth Road and outside the defined settlement boundary. This includes the Council depot and the recycling centre close to the appeal site as well as a school off Rake Lane to the north.
24. The proposed house would be close to the built-up area of the village. However, it would be physically and visually separate from the linear development along Petworth Road as it would be behind it. It would have a frontage to the access road, where there are no other houses, appearing anomalous in this location. This would be out of character with the pattern of development in the surrounding area.
25. My attention has been drawn to examples of residential development set behind existing development along Petworth Road. Whilst such development exists, it does not form part of the established character of the area which has a distinctive linear form. Furthermore, unlike the appeal proposal, these houses are not widely visible from the surrounding area.

³ *Euro Garages Ltd v SSHCLG & Anor* [2018] EWHC 1753 (Admin)

26. I also recognise that there are some limited examples of residential development along Mill Lane, Lakes Lane and Rake Lane. However, these are some way from the appeal site, comprise a few houses which address the highway and, in the case of Mill Lane and Lakes Lane, are significantly closer to the village centre where development is more clustered. For these reasons, they do not directly compare with the appeal proposal. Similarly, the non-residential development, whilst set away from Petworth Road does not form part of the residential character of the area and does not therefore justify the proposal.
27. The appellant has argued that the desirability of maintaining the character of the area should be more balanced against making a more efficient use of land. However, the appeal site contributes to the character of the village by reinforcing its linear pattern of development. It is not therefore an inefficient use of the land.
28. I conclude that the proposed development would harm the character and appearance of the surrounding area. It would therefore conflict with Policy TD1 of the LPP1, Saved Policies D1 and D4 of the Waverley Borough Local Plan 2002 (Local Plan) and Policy ND6 of the WNP. These policies together require new development to respond to the distinctive local character of the area and its relationship to its surroundings and to integrate effectively with existing development. It would also not accord with the Framework, which requires new development to be sympathetic to local character and to establish a strong sense of place using the arrangement of streets and spaces to create distinctive places to live.

Highway safety

29. The appeal site has an existing gated access onto a private road which the Council has indicated falls outside the jurisdiction of the County Council. The gated access would serve the proposed dwelling.
30. The access road is a relatively narrow road which provides vehicular access to the Council's depot, the local recycling centre and the adjacent landscape contractor's yard. The road is subject to a 10 mph speed limit, it is mostly single track with two lanes for a section outside the appeal site and a system of prioritisation of traffic. Due to the nature of the uses along this access road, it is subject to large volumes of traffic including HGVs servicing the site.
31. The existing access from the appeal site onto this road is between a high boundary wall, set back from the carriageway behind a narrow verge. The wall restricts visibility in both directions. With high levels of traffic along this road accessing the depot and recycling centre, this would increase the risk of collision between users of the access road which would be harmful to highway safety.
32. The Manual for Streets advises that on low speed roads, such as that which the proposed house would have access to, the required visibility splay would be 2.4 metres by 25 metres in both directions. The appellants have submitted drawings indicating that this could be achieved through the removal and rebuilding of a section of their boundary wall. From the details provided, it seems that part of the visibility splay would nevertheless have to be across land outside the appellants' ownership. It has been suggested that this is land

owned by the Council and would therefore be expected to be kept clear of vegetation, however, I have no firm evidence of this.

33. Furthermore, the appeal site would not have direct access to the public highway, Petworth Road. The appellants have right of access over the private road. However, the private road has no footpath to provide safe and suitable pedestrian access from the proposed house to the highway. This would require land outside the appellants' ownership and there is no certainty that this access could be provided.
34. The requirement to provide safe and suitable access arrangements is a material consideration. I acknowledge that the requirement of the 'red line' of the site extending up to the public highway was not raised by the Council during the application process. Whilst I appreciate this must be frustrating for the appellants, this is a procedural matter and does not affect the planning merits of the case.
35. For the reasons set out above, I cannot be satisfied that the scheme would not increase the risk of conflict between road users which would be harmful to highway safety. I therefore find that it would conflict with the Framework that requires safe and suitable access to the site to be achieved for all users.
36. The Council's decision refers to Policy ST1 of the LPP1, however, this is concerned with sustainable transport and is not directly relevant. There would however be conflict with Saved Policy D4 of the Local Plan which both parties have acknowledged is a relevant policy. This policy requires safe access for pedestrians and road users.

Other Considerations

37. The proposal would provide a custom build house that would meet the needs of the appellants and enable them to remain within the village and community in which they have a well-established life. Their current home, Lion Gate Court, does not provide the appellants with suitable accommodation and, being statutorily listed, cannot be easily adapted to meet their requirements. However, this would be a personal benefit of the scheme. I therefore give it limited weight.
38. The proposed dwelling has been described as being energy efficient and eco-friendly. However, I have been provided with limited details of this other than compliance with Building Regulations, and the incorporation of solar panels and maximisation of natural light. This carries limited weight.
39. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be given to the desirability of preserving a listed building or its setting. Lion Gate Court is a former farmhouse, dating back to the sixteenth century with further alterations during subsequent periods. Its rural setting has been largely eroded by the presence of existing development around it including the recycling centre. With a generous amount of space between the proposed house and the listed building, the proposal would not harm the setting of the listed building. This is a neutral factor.
40. Witley, as a larger village identified within the LPP1, has been allocated 480 new homes across the plan period. In addition, 188 dwellings are anticipated to be delivered on windfall sites in the larger and smaller villages. The appeal

scheme, in providing one additional house on a windfall site, would make a small contribution to meeting this housing need. The contribution from a single house would be limited and this benefit of the scheme attracts moderate weight.

41. The appeal site is in an accessible location, within walking distance of the facilities, services and public transport serving both Witley and Milford. I give the accessibility of the proposal significant weight.

The Green Belt Balance

42. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause moderate harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 144 of the Framework.
43. In addition to my finding that the proposed development would be inappropriate development, I have identified harm to the character and appearance of the area and to highway safety. These factors weigh heavily against the development.
44. The proposal would provide one additional house, built to required energy efficiency standards, in an accessible location. It would also provide the private benefit of bespoke accommodation for the appellants. Together, these amount to modest benefits of the scheme which would have little weight and would not outweigh the significant harm to the Green Belt I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
45. As such the proposed development would be contrary to the Framework and Policy RE2 of the LPP1 which set out that Green Belt should be protected against inappropriate development.

Conclusion

46. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR