



Appeal Decision

Site Visit made on 30 June 2021

by Mrs J Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 13th July 2021

Appeal Ref: APP/D3640/W/20/3264477

Land adjacent to Bridgewater Farm, Chertsey Road, Chobham GU24 8PL

- 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 Michael Elling against the decision of Surrey Heath Borough Council.
 - The application Ref 20/0834/FFU, dated 17 September 2020, was refused by notice dated 12 November 2020.
 - The development proposed is the erection of a detached chalet bungalow with revised driveway and replacement front entrance gates, following the demolition of the existing buildings.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has confirmed that the second reason for refusal relating to the absence of a payment or legal agreement¹ to deal with the effect of the development on the Thames Basin Heaths Special Protection Area has been overcome. Consequently, the Council has withdrawn the second reason for refusal. This is a matter to which I will return.

Main Issues

3. 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 the development plan;
 - 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

Inappropriateness

4. The Framework at paragraph 145 regards the construction of new buildings in the Green Belt as inappropriate development. Exceptions include limited

¹ under Section 106 of the Town and Country Planning Act

- infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
5. Whilst the site is located a short distance from the edge of the settlement there is a clear and substantive difference from the character of the village to that of the appeal site which has a distinctly rural and verdant appearance. The densely planted frontages mean that the appeal site is not visually connected to the village. Moreover, in the immediate vicinity of the site buildings are set well back from the road. Though some properties have fences or walls in front of the mature boundary planting there is no sense of frontage development until the row of properties opposite Mincing Lane a short distance to the west. Immediately to the east of the appeal site group of new dwellings have recently been constructed though these are arranged around a new access road running at right angles to Chertsey Road which form a discrete group. To that end the appeal site could not be considered to be infilling in the sense that it is not a gap in an otherwise built up frontage.
 6. In reaching this view I have taken into account the appellants' contention that the presence of a footway between the appeal site and the village together with the position of the 'welcome to Chobham' road sign (to the east) indicate that the appeal site should be regarded as within the village. For the reasons already outlined I disagree that the site is within the village and have explained why I consider it not to be an infill plot.
 7. There is no dispute between the appellant and the Council that the site is previously developed land, the question to be addressed therefore is whether the redevelopment would have a greater impact on the openness of the Green Belt than the existing buildings.
 8. The existing structures are a combination of dilapidated stables of modest height and a taller open storage barn. They are located in a narrow linear arrangement towards the middle of this particularly large plot taking up a very small proportion of the site area. They run deep into the site occupying around a third of the site depth but much less of the site width at around a fifth.
 9. The proposal involves the erection of an 'L' shaped dormer style dwelling with three double bedrooms and three bathrooms formed in the roof space with six pitched roofed dormers. The height of the building would be 7 metres as compared to the 5.1 metre height of the tallest existing building. Even though the footprint of the new dwelling would be roughly the same floor area as the cumulative area of the existing structures, it would be more than twice the width of the widest existing building. And significantly wider and taller than the range of stables which have a modest width and a height of around 3 metres.
 10. To this end despite the plot size being significantly greater than the footprint of the existing buildings the proposed dwelling, due to its consolidated bulk, massing, width on the plot, and increased height, would appear as a substantially greater structure than the buildings that it would replace. For these reasons the proposal would represent inappropriate development as defined in the Framework.
 11. Of the development plan policy referred to in the first reason for refusal, I note that policy DM9 of the Surrey Heath Core Strategy and Development Management Policies (SHCSDMP) of 2012 pre dates the Framework though

relates to the requirement to respect and enhance the local, natural or historic character of the environment in both urban and rural settings. I have not been directed to any development plan policies relating to the Green Belt though Policy DM9(ii) of the SHCSDMP reflects the need to protect the character of rural settings. In this case I regard the Framework provisions to be the most compelling.

12. Given the above, the development would not fulfil the requirements of any of the exceptions in paragraph 145 of the Framework. Consequently, it is inappropriate development which, by definition, is harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

13. Paragraph 133 of the Framework states that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Although not defined in the Framework, openness is identified as one of the essential characteristics of the Green Belt. The Court judgement highlighted by the appellant² reinforces that openness of the Green Belt has a spatial aspect as well as a visual aspect and is not limited to the measurement of volumes.
14. There are relatively dense landscape features around the appeal site and the replacement building would consolidate the volume of the range of smaller structures on the site. Even so, the resulting building would be wider and higher than the existing structures. Notwithstanding that it would be a replacement for a group of utilitarian rural buildings the visual and spatial effect of the dwelling would be materially greater. Even though the appeal site is well enclosed by mature vegetation and by substantial boundary fencing, the proposal would be visible from the recent development at Rosebank Drive, from the rear of Bridgewater Farm, and to a lesser but no less important extent from the access on Chertsey Road where currently the existing buildings are seen end on. To this end there would be an effect on openness albeit one of localised impact.
15. These factors cannot fail but to have a greater impact on the openness of the Green Belt in spatial terms, and thus cause harm. For these reasons I conclude that the proposal would cause moderate harm to the openness of the Green Belt.

Other considerations

16. The appellant suggests that the Council indicate that a 30% increase is the maximum normally considered acceptable and the scheme is less than that threshold. However, whilst that may be an approach of the Council in relation to the expansion of existing dwellings there is no such threshold in the Framework in relation to the assessment of applications in the Green Belt. In any event this is not the enlargement of an existing dwelling and the comparison must be between the existing buildings and the proposed development.
17. There is an extant permission for a dwelling on the site with a footprint similar to that of the proposed dwelling. However, that consent is for a low-rise dwelling of much smaller proportions. That permission was altered by way of a

² Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

variation of the condition to add an excavated basement incorporating additional living accommodation. The extant scheme (as amended) would have a larger volume and greater quantum of floorspace. However, a substantial proportion of this would be underground. This fall-back position would not offset the above ground increases which this appeal scheme would represent and as such I afford it limited weight.

18. My assessment must be made against the existing buildings and not by comparison to the cumulative impact of the volume of structures which could be built under an alternative consent. Whilst that consent represents a fall-back position for the appellant it does not justify the building of a structure of increased height and greater visual impact and which I have considered on its individual merits
19. The appellant suggests that the current proposal would be of more sustainable construction and of improved design which would sit more comfortably on the site than that already consented. Additionally, he highlights the proposal would have no adverse impact on adjacent properties. The design, sustainable construction methods and impact on adjacent properties are not disputed by the Council. Whilst these factors weigh in favour of the scheme, the Framework makes clear that aspects of good design, acceptable relationship with neighbouring properties and, sustainable construction are fundamental to all developments and they do not therefore represent notable benefits.
20. The appellant indicates that the increase in size would be off set through the demolition of the existing building and the consolidation of the floorspace which would reduce the lateral spread of buildings across the site. He argues that this coupled with the reduction in the ground levels to drop the dwelling into the site also helps to minimise any visual impact from the road. Even when offset by the buildings to be removed and the reprofiling of the land, it would not eliminate the loss of openness which would result from the consolidated taller, and wider structure which would appear of significantly greater massing than the existing buildings.
21. The appellant's desire to achieve an alternative design having recently acquired the site is understood. Nevertheless, this factor is not one which weighs favourably into the planning balance.
22. The appellant argues that there are very special circumstances which arise from the quality of design and the provision of a family home which would make a small yet important contribution to the Councils housing target. I have already commented on the design aspects and note that a family home could be achieved by the extant permission. Consequently, there would be no net gain over and above that already consented and it would not represent a benefit to which I could attribute any weight.

Other Matters

23. The appeal site lies within 5km of the Thames Basin Heaths Special Protection Area (SPA) in an area where all new development is required to provide Suitable Alternative Natural Greenspace or provide a contribution towards alternative provision. The Council have confirmed that a payment has been made in respect of this development which has been transferred from an earlier approval. Given that a payment has been made the Council have withdrawn the second reason for refusal as confirmed in my preliminary

paragraph. As such the proposal would be compliant with Policy CB14B of the SHCSDMP and Policy NRMB of the South East Plan. However, should the development have been considered acceptable in all other respects, I would have had to be satisfied that an assessment had been undertaken to ensure the proposal's compliance with the Habitats Regulations in respect of the effect on the SPA. As the application is failing for other reasons, I need not consider this matter further.

24. My attention has been drawn to a series of other permissions where levels have been a factor and where the relationship of the village to individual plots has been compared. Whilst I do not have the specific details of those schemes before me, from the evidence which I do have the circumstances differ from the appeal scheme such that I cannot be certain that they are directly comparable. They do not therefore affect my findings on the main issues which, in any event, I have considered on the basis of its individual merits. Of the recent development on the immediately adjacent site I note that it was justified on the basis of a very significant reduction in the built form from the previous commercial nursery buildings, a situation which does not apply here.
25. I note that there have been representations both in support and opposition to the development raising issues of design, massing, proximity to the village and relationship with properties at Rosebank Drive. However, the evidence on these matters does not alter my findings in relation to the main issues.

Green Belt Balance

26. The Framework advocates that substantial weight should be given to any harm to the Green Belt when considering any proposal for development within it. It goes on to state that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
27. I have found harm to the Green Belt by reason of inappropriateness. In addition, I have found moderate harm to the openness of the Green Belt. Balanced against that are the other considerations referred to above. However, for the reasons given these do not either singly or in combination, clearly outweigh the harm to the Green Belt. Therefore, the very special circumstances necessary to justify the development do not exist and the development would conflict with the Green Belt protection aims of the Framework.

Conclusion

28. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

Mrs J Wilson

INSPECTOR