



Appeal Decision

Site visit made on 13 July 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2021.

Appeal Ref: APP/M3645/D/20/3264670

Copthorne Stud, Effingham Road, Copthorne, RH10 3HY

- 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 Smith-Halvorsen against the decision of Tandridge District Council.
 - The application Ref TA/2020/1297, dated 21 July 2020, was refused by notice dated 1 October 2020.
 - The development proposed is erection of nine flats with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 20 July 2020 the Government published a revised version of the National Planning Policy Framework (July 2021) (Framework). However, the Green Belt policies that are relevant to this appeal have not changed and there was no need, therefore, to invite the parties to make further submissions in response to the revised Framework. The paragraph numbering for the Green Belt policies has changed and I have highlighted those changes in my decision.
3. An appeal to erect nine dwellings on the appeal site was dismissed on 20 October 2020 (ref. APP/M3645/W/20/3255283) (2020 Appeal). In that decision, the Inspector was satisfied that the highway and drainage concerns raised by the Council could be addressed by conditions should the proposal be acceptable in all other respects. In the context of this appeal, the Council have raised similar highway and drainage issues in their second and third reasons for refusals. However, having reviewed the plans and the previous appeal decision, I am satisfied that these issues could be addressed by conditions if I was minded to support the grant of planning permission. I have determined the appeal on that basis.

Main Issues

4. The main issues are:
 - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and development plan policy; and
 - (b) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed

by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development in Green Belt

5. The appeal site comprises an open field and steel frame of a former indoor equestrian sand school building, together with a smaller lean-to element at the front. To the east is an existing 'u' shaped stable block. Further to the south east is a detached house and outbuildings known as Whitegates.
6. Paragraph 149 of the revised Framework (previously paragraph 145) states that the construction of new buildings in the Green Belt is inappropriate development unless it falls within one of the exceptions listed a) to g) (inclusive). The parties agree that the existing structures on the appeal site constitute previously developed land. Exception g) to paragraph 149 states that the complete redevelopment of previously developed land, whether redundant or in continuing use, is not inappropriate development provided it would "*not have a greater impact on the openness of the Green Belt than the existing development.*" Annex 2 (Glossary) to the revised Framework defines previously developed land as "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.*"
7. A further exception under paragraph 149 g) relates to proposals to re-use previously developed land to meet affordable housing needs in the area. That exception does not apply in that the appeal proposal is for market housing.
8. Part G of Policy DP13 of the Tandridge Local Plan Part 2: Detailed Policies (July 2014) (TLP), essentially repeats the provisions of the revised Framework in relation to the redevelopment of previously developed land in the Green Belt. As such and whilst Policy DP13 predates the revised Framework, I am satisfied that, in this respect, the policy is consistent with the Framework.
9. The assessment required under paragraph 149 g) is whether the appeal proposal would have a greater impact on the openness of the Green Belt compared to the redundant indoor sand school building and lean-to, i.e. the existing development. The policy does not require an assessment, as the Appellant contends, of the appeal proposal in relation to the extant planning permission to replace and extend the indoor sand school building (ref. TA/2018/1871), granted in December 2018 (2018 Consent).
10. The impact on openness has a spatial as well as a visual aspect. In spatial terms, there is no agreed schedule of existing and proposed measurements. There is also no existing plan of the former sand school building or any detailed workings showing the parties calculations. I have therefore based my assessment on the observations I made on site, the proposed plans and the application documents that accompanied the 2018 Consent. The proposed increase in volume, floorspace, footprint and external measurements are all relevant to my assessment, as is the context, siting and prominence of the appeal proposal compared to the existing development.
11. The Council's measurements for the existing development have been taken from the 2018 Consent. In terms of footprint, the appeal proposal, based on

the estimate of the footprint of the existing development in the Council's evidence (no such figure is provided by the Appellant) would result in an increase of approximately 24.5%. In relation to volume, the increase resulting from the appeal proposal compared to existing would be approximately 14.8% or 10% based on the Council's or the Appellant's estimate respectively of the proposed volume (the existing volume is again based on the Council's estimate as there is no such figure in the Appellant's evidence).

12. The Council's Delegated Report for this appeal stated that the above increases in footprint and volume were not 'disproportionate'. However, that assessment is only required in relation to extensions to existing dwellings, covered under exception c) to paragraph 149 of the revised Framework, and is not a test required by exception g).
13. Based on the above estimates, the appeal proposal would result in a large increase in footprint compared to existing. Whilst the increase in volume would be smaller, it would still, in my judgement, result in a material increase over that currently existing. It follows that the appeal proposal would also lead to an increase in most external measurements and total floorspace compared to existing.
14. Furthermore, whilst it is difficult to make an exact comparison in the absence of an existing site plan, based on the evidence available and my observations on site, the appeal building would clearly be sited further west and forward of the existing development, encroaching onto land that is currently open. Similarly, based on the proposed layout plan, the overall width of the appeal building would be approximately 37 metres compared to the width of the existing structure which is approximately 24.6 metres.
15. Moreover, the appeal proposal would introduce a long loop road around the whole of the new building, with refuse bin areas, an unbroken line of 18 parking spaces as well as two visitor spaces. The proposed layout plan shows very little detail, but the introduction of boundary treatments and other paraphernalia associated with the new flats, such as communal amenity space and drying areas, external lighting to the new building and access road/parking areas, would further contribute to a substantial increase in the visual and spatial impact of the appeal proposal compared to existing.
16. I accept that the existing open sand school, to the west of the indoor structure, would be removed, but does not detract from the current openness of the appeal site. On the other hand, the extensive new internal road from Effingham Road, engineered to a minimum highway standard of 4.8 metres (as shown on the proposed road layout) would have an urbanising effect and a far greater impact visually than the existing low-key access.
17. Overall, therefore, the appeal proposal would have a significant spatial and visual impact on openness compared to the existing development.
18. Other than the former sand school structure on the appeal site and the adjoining stable block, the surrounding land is largely open and grassed. Whilst the appeal site benefits from screening provided by existing woodland and hedging, the proposed development would still be visible through the new access, and in glimpsed views from properties on the opposite side of Effingham Road as well as the public footpath to that road, and from Whitegates.

19. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and its essential characteristics are, therefore, its permanence and openness. In my judgement, based on all the measurements, comparisons and other factors I have identified above, the appeal proposal, would, in visual and spatial terms, have a greater impact on the openness of the Green Belt than the existing development. The revised Framework advises at paragraph 137 (previously paragraph 133) that openness is an essential characteristic of Green Belts, and the appeal proposal would, therefore, cause harm in this regard.
20. For the above reasons, I conclude that the appeal proposal would have a greater impact on the openness of the Green Belt compared to the existing development, and exception g) to paragraph 149 of the Framework does not apply. It would, therefore, represent inappropriate development in the Green Belt, which Paragraph 147 of the revised Framework (previously paragraph 143) states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
21. Accordingly, I find that the appeal proposal would fail to accord with Policy DP13 of the TLP and paragraph 149 g) of the revised Framework.

Other Considerations

22. The Appellant has not put forward, in the context of paragraph 147 of the revised Framework, any 'very special circumstances' that would outweigh the harmful impact of inappropriate development on the Green Belt. Even so, the implications of the extant 2018 Consent as a potential fallback position must be considered further.
23. In the 2020 Appeal, the Inspector stated, in paragraphs 2 and 3 of his decision, that in granting the 2018 Consent the Council found that the replacement of the existing indoor sand school structure would not be inappropriate development, whereas the proposed rear extension would be, but that the development as a whole was justified by very special circumstances. As a consequence, the Inspector found that the 2018 Consent was fundamentally different to the appeal proposal before him (for nine dwellings). I concur with the Inspectors findings in this respect. It is not uncommon to find buildings, such as that approved in the 2018 Consent, supporting existing equestrian uses, where their purpose is considered appropriate to that location, subject to the visual and spatial impact of the proposed building(s). Indeed, the Council's Delegated Report for the 2018 Consent concluded that the proposal would provide appropriate facilities to support the outdoor activities that already existed on site.
24. The Appellant contends that if the current appeal were to fail then the 2018 Consent would be implemented and that this is an important material consideration. Whilst I noted on my site visit that some earthworks had been undertaken on the alignment to the new access road, there is no evidence before me to suggest that this represents a material start on the implementation of the 2018 Consent, and indeed I could not find any mention of these works in the submitted evidence. Even so, it is not for me to determine the status or implications of these works within the context of an appeal that has been made under section 78 of the Town and Country Planning Act. I can only consider the proposal that is before me.

25. For a fallback position to be accorded any weight, there must be a real prospect of it being implemented, i.e. there must be a greater than theoretical possibility that the fallback would take place. The Council's Delegated Report for the 2018 Consent states that, at the time, the appeal site was occupied by the same steel frame to the former indoor sand school and was similar to a development approved in 2010. The Council's Delegated Report for the current appeal, dated 30 September 2020, states that when Officers visited the site there was no evidence of any equestrian use taking place on the site. That was also the position I observed on my site visit.
26. The above evidence indicates that the former indoor sand school has been derelict for a number of years, and that the adjacent stables have similarly not been used recently. Indeed, no evidence has been provided by the Appellant to indicate whether any of the equestrian uses that previously took place on the appeal site or on adjoining land are likely to recommence in the event that this appeal failed.
27. There is therefore no substantive evidence before to demonstrate that there is a real prospect that the fallback position would be implemented. A commitment to implement the fallback position would, for example, be confirmation that the pre-commencement conditions to the 2018 Consent have been discharged, but I have not been provided with any such evidence. The only submitted evidence is the Appellants statement that they would implement this fallback, but I am not convinced that that statement on its own demonstrates that there is a real prospect of the 2018 Consent coming forward.
28. The approval to replace and extend the indoor sand school has clearly existed for a number of years, but, even so, the development has not come forward and I am not persuaded that there is any firm commitment from the Appellant or other evidence to indicate that it would or could now be delivered or that there remains a demand for this development.
29. Given the above and based on the evidence that is before me, this is not a consideration which, in my judgement, I am able to accord any weight. For the above reasons, it is not a matter that I have considered further.
30. The Appellant has referred to an appeal decision to redevelop an existing tennis club in the Green Belt. In the 2020 Appeal, the Inspector found that this decision was not comparable to the proposal for nine dwellings. I concur with those findings. The tennis club scheme was found to result in a significant reduction in building volume to that existing and accordingly that it would not have a greater impact on the openness of the Green Belt than the existing development. That decision does not therefore affect the conclusions I have reached above.

Overall Balance and Conclusion

31. I have found that the appeal proposal would be harmful to the Green Belt as it would constitute inappropriate development as a result of the greater impact the proposed development would have on openness than existing development. Paragraph 148 of the revised Framework (previously paragraph 144) requires substantial weight to be given to any harm to the Green Belt. It further states that very special circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations. The level of harm to

the Green Belt would, in my judgement, be significant, and the other considerations in this case do not outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

32. There are benefits to the appeal proposal. These include securing new residential units and boosting the supply of new homes in line with paragraph 60 of the revised Framework (previously paragraph 59), as well as short term economic benefits from construction, increased local spend and support for local services and facilities. Even so, the proposal is for market housing and does not seek to meet any identified affordable need. In view of this, I would only accord these benefits limited weight and they would clearly not be sufficient to outweigh the harm to the Green Belt.
33. The Council acknowledge that they are unable to identify a 5-year supply of housing land and that the relevant housing policies of the development plan are out of date. In these circumstances, paragraph 11 d) i) of the revised Framework requires planning permission to be granted unless the application of the policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development proposed. Footnote 7 confirms that the policies referred to are those in the revised Framework, rather than those in the development plan, and include policies relating to "*land designated as Green Belt.*"
34. Accordingly, the application of the policies in the Framework that seek to protect designated Green Belt land provide a clear reason for refusing the appeal proposal. The presumption in favour of sustainable development envisaged in the Framework does not apply in this instance. The appeal proposal conflicts with the development plan and revised Framework taken as whole and there are no material considerations that outweigh that conflict.
35. For the reasons given above and having taken all the matters raised into account I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR