



Appeal Decision

Site Visit made on 15 September 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/M3645/W/21/3269932

Land at Brooknook, Lake View Road, Felbridge RH19 2QF

- 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 Ottewell against the decision of Tandridge District Council.
 - The application Ref TA/2020/1959, dated 27 October 2020, was refused by notice dated 20 January 2021.
 - The development proposed is transfer of two car sales areas secured through CLEUD reference TA/2012/821 to a revised location within the same premises and extinguishments of said CLEUD through a Unilateral Undertaking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A draft heads of terms has been submitted with this appeal regarding the extinguishment of rights relating to existing uses. I will return to this matter later in this decision.
3. During the consideration of this appeal the revised National Planning Policy Framework July 2021 (the Framework) has been published. Both main parties have had the opportunity to submit comments on the relevance of the Framework to this case.

Main Issues

4. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposed development on the character and appearance of the area.
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development

5. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt and thus should be approved only if very special circumstances exist. These requirements are generally included in Policies DP10 and DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2020 (July 2014) (the Local Plan) which are broadly consistent with the Framework.
6. Paragraph 150 of the Framework sets out certain forms of development which are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. Of relevance to this appeal is that 'material changes in the use of land', is listed as an exception in paragraph 150 e) of the Framework.
7. There is no dispute between the main parties that the proposed development is for a material change in the use of land. Therefore, I will go on to consider the effect of the proposed development on openness.

Openness

8. Openness has both a spatial and a visual aspect. The appeal scheme would result in a number of vehicles parked on a piece of land that is currently open. It appears to me that it would be likely that such parking would occur at all times. The proposed development does not seek permission for any buildings or structures and I am not persuaded that the use would result in notable paraphernalia. Nonetheless, the bulk and relative permanence of vehicles on this land would have a greater effect on the spatial openness of the site compared with the existing open grassed area.
9. The boundary with Lake View Road has a close board fence with some planting including trees. However, due to the slope of the land, it is likely that parked vehicles would be perceived from Lake View Road. Albeit, that the wooded area would prevent views from the A264 to the north. Consequently, there would also be a loss of visual openness.
10. Therefore, for the reasons described above, the development that is the subject of this appeal would not preserve the openness of the Green Belt and is inappropriate development in the Green Belt in the terms of the Framework and Policy DP10 of the Local Plan.

Character and Appearance

11. This part of Lake View Road is characterised by substantial detached dwellings with large front gardens. Development is set back from the road creating a spacious, verdant character.
12. Brooknook is a large, detached property and the appeal site forms part of its grounds. To the front of the house, there is a gravel driveway, stream, wooded area and well maintained grassed lawn. There are also two existing car sales areas. One of these is directly to the front of the property and is surrounded by structures which appear as a covered parking area, a double garage and large

outbuildings. Given their appearance, modest height and location close to the house these structures appear ancillary to the main dwelling. Parking in this area is partially screened by these buildings. The other is located within the lawned front garden area of Brooknook and includes vehicles parked on gravel. Taking all the above into account, although there is some visual intrusion from the car sales area in the front garden, generally Brooknook appears as a substantial dwelling in an attractive rural, green setting.

13. The proposed development would introduce hardstanding and the semi-permanent presence of an increased number of vehicles on a sizable scale to this open soft landscaped area. The extent and urban nature of this development in the front garden would undermine the rural character of Brooknook. It would also create an inharmonious form of development close to Lake View Road which would erode the existing spacious pattern of development in this area.
14. Consequently, the proposed development would be harmful to the character and appearance of the area. As such it would be contrary to Policy DP7 of the Local Plan and Policies CSP18 and CSP21 of the Tandridge District Core Strategy (15 October 2008). Together these require that new development is of a high standard of design that respects the local area and provide detail as to matters to be addressed to secure this and require that the character of the countryside should be protected for its own sake, amongst other things. This is broadly consistent with the Framework.

Other Considerations

15. The appellant submits that the harm to openness would be offset by the removal of two existing car sales areas. Although heads of terms have been provided, this is not an executed and certified copy of the executed planning obligation. It does not bind anyone to the actions set out. Therefore, notwithstanding the detail of how the cessation of the existing uses would be secured, I am not provided with a mechanism that ensures this. Consequently, even if I were to find that the removal of the existing car sales areas was a benefit of the development in terms of openness and/or living conditions of existing occupiers, given the uncertainty that it would take place, I afford this benefit only minimal weight.
16. Accordingly, there is nothing to prevent the existing uses continuing which I understand are uncontrolled by planning conditions. As such, this would not alter as a result of the development. I am not presented with any evidence that the existing business is unable to operate under the current arrangement, and therefore I am not persuaded that it would not continue, regardless of the outcome of this appeal.

Green Belt Balance

17. The Government attaches great importance to Green Belts. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt. I have found harm to the Green Belt by reason of the proposed development's effect on openness and consequently its inappropriateness. As well as harm to the character and appearance of the area. These issues are not outweighed by the considerations advanced by the appellant. Therefore, the other considerations in this case, even when considered together, do not clearly outweigh the harm that I have identified.

18. Therefore, the very special circumstances necessary to justify the development do not exist. Consequently, the proposed development would conflict with Policy DP10 of the Local Plan and paragraph 148 of the Framework the aims of which are set out above.
19. Policy DP13 of the Local Plan provides detail regarding the construction of new buildings in the Green Belt. Given the nature of the development proposed, the policy above is more relevant to this main issue.

Conclusion

20. The proposed development would not accord with the development plan and there are no material considerations to outweigh that finding. Therefore, for the reasons given, the appeal is dismissed.

H Miles

INSPECTOR