



Appeal Decision

Site visit made on 17 January 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2022

Appeal Ref: APP/G2245/W/21/3275938

Land adjacent to Eynsford Station, Upper Austin Lodge Road, Eynsford, Kent, DA4 0HP

- 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 John Friend against the decision of Sevenoaks District Council.
 - The application Ref 21/00214/FUL, dated 20 January 2021, was refused by notice dated 30 April 2021.
 - The development proposed is change of use from former railway goods yard to residential including the removal of unauthorised storage containers and the erection of a 3-bedroom chalet bungalow.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

3. The main issues raised in respect of this appeal are: -
 - a) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies and the effect of the proposal on the openness of the Green Belt;
 - b) The effect on the living conditions of future occupiers; and
 - c) Whether harm by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would those amount to the very special circumstances required to justify the proposal?

Reasons

Green Belt and openness

4. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristic of Green Belts being their openness and their permanence.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. The Framework states that the local planning authority should regard construction of new buildings as inappropriate development in the Green Belt unless it is one of seven specific exceptions (paragraph 149) of the Framework. Two of the exceptions (149 e and g) are "*limited infilling in villages*" or "*limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would; not have a greater impact on the openness of the Green Belt than the existing development; ...*".
6. Policy LO1 of the Sevenoaks Core Strategy (the CS) focuses development to within the built confines of existing settlements. This policy also states that "*Development will only take place where it is compatible with policies for protecting the Green Belt*".
7. The site is located beyond the development plan defined village confines. As such, it would not be infilling development within a village. The site is adjacent to the railway station and the train line but otherwise would not be development that would represent infilling between existing development as the land is largely open undeveloped space south and east of the site. Whilst the land may have little value in terms of agricultural or horticultural use, the land is open and undeveloped and, as such, host those attributes of the countryside land to south and east of the site rather than the urban settlement to the northeast beyond the highway.
8. It is contended that the site historically has been used for storage purposes for a period in excess of 10 years, however the Council question whether this use was lawful. There are presently three storage containers on the site, however the parties indicate these to be unauthorised development.
9. An aerial photograph from around the 1960s shows the land was being used for some purpose but it is not clear what that was. In any event, this photograph only provides a snapshot in time. The history provided by the appellant indicates that planning permission was refused for the use of the site as a builder's yard in 1978 and a builder's merchants in 1984. Reference is made to the site being used as a dumping ground for builders' rubble in 2008 by the Parish Council and site owners using the site for storage/storage of builders' materials in 2011 and 2014.
10. The description of the proposed development describes the proposal to be a change of use of land from a former railway goods yard. The Council has accepted this description. However, the extent and timeframe of any uses of the site is unclear and the history does not identify whether permanent structures may have historically been present at the site.
11. Even if the site were to be considered previously developed land, paragraph 149g of the Framework requires the redevelopment of the site not to have a greater impact on the openness of the Green Belt than the existing development. The three storage containers presently at this site are unauthorised and, as such, would not provide justification for the proposed development. The timeframe and extent of any historic storage at this site is unclear and does not demonstrate the existence of any buildings or structures of an equivalent size to that of the proposed dwelling. Furthermore, I saw that

only a small area to the north of the site was being used presently for builders' storage.

12. A dwelling with its associated garden and driveway would be a complete redevelopment of the site. A dwelling would have a greater impact on the openness of the Green Belt than the existing mostly undeveloped site. The site history does not substantively lead me to conclude that the site has been occupied by permanent structures or land uses that could have had the same or greater impact on the openness of the Green Belt than that of the development proposed.
13. It is suggested that if planning permission is not forthcoming the site would revert to use as a goods yard (storage) and this is presented as a fallback position. Having taken account of the planning history provided by the appellant I have not been able to establish the extent and timeframe of any historic uses that may have taken place at the site. As such, this does not clearly establish a potential future use for the site to which a realistic fallback could be applied.
14. The proposal would reduce openness by virtue of creating built development in the Green Belt. This would have a greater impact on the openness of the Green Belt than any potential historic uses of the site have demonstrated. As such, the proposed development would not comply with the exceptions of paragraph 149 of the Framework and would be inappropriate development in the Green Belt. Being outside a settlement and within the Green Belt the proposal would conflict with Policy LO1 of the CS. I have been referred to the Court of Appeal case of *Dartford Borough Council v SoS for Communities and Local Government & Ors* 2017 [EWCA Civ 141]. I have had regard to this judgement in reaching my conclusions.

Living conditions

15. Given the extremely close proximity of the proposed dwelling to the railway line and the station platforms, future occupiers could be susceptible to noise and vibration generated by trains. Excessive noise and vibration could be harmful to the living conditions of future occupiers of the proposed development, both when within the dwelling and when using the dwelling's associated outdoor garden.
16. The appellant indicates his willingness to accept a pre-commencement planning condition requiring a noise survey to be undertaken and this could detail sound attenuation methods. A noise survey is required to establish the level of noise and vibration future occupiers could experience. Without this being established there is no clear indication at this stage whether the level of noise and vibration experienced by future occupiers would be acceptable or could potentially be satisfactorily attenuated. Therefore, I do not consider that it would be appropriate to rely on the imposition of a planning condition as there is no substantive clear indication that such a condition could ameliorate the objections sufficiently to allow permission to be granted.
17. For these reasons, the proposal does not demonstrate that the effect on the living conditions of future occupiers from the adjacent railway would be acceptable. This brings the proposal into conflict with Policy EN2 of the Sevenoaks Allocations and Development Management (ADMP) Plan and the Framework. This policy and the Framework seek development not to be

located in areas where occupiers of the development would be subject to excessive noise and vibration, amongst other matters, and that require a high standard of amenity for future users.

Other considerations

18. The dwelling would be well integrated within the site and its landscaped boundaries. The proposed dwelling would be acceptable in terms of its design and appearance. The development would not impact upon the living conditions of existing neighbouring occupiers. Adequate parking and site access would be provided. The proposal does not raise concerns with respect to ecology or trees. Whilst these are attributes of the scheme, they are matters that would be required to be acceptable in planning terms on their own individual merits. As such, they hold neutral weight in favour of the proposal.
19. The Council does not have a five-year supply of housing sites. If there is not a five-year supply of deliverable sites in place, the provisions of paragraph 11d) of the Framework should be applied. Paragraph 11d)i indicates that the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 that corresponds to paragraph 11d)i lists designated Green Belt amongst those that are of particular importance. Therefore, the Council's housing supply shortfall holds no weight in favour of the proposal.

Conclusion

20. The proposal would conflict with Policy LO1 of the CS and Policy EN2 of the ADMP. The proposed development would result in harm to the openness of the Green Belt and would, by definition, be harmful to the Green Belt. I attach substantial weight to the harm to the Green Belt having regard to the policy in the Framework. The benefits of the other considerations do not clearly outweigh this harm. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
21. Having regard to all matters raised, the appeal should be dismissed.

Nicola Davies

INSPECTOR