



Appeal Decision

Site visit made on 25 January 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/M2270/W/21/3272797

Land adjoining and with access from Upper Hayesden Lane, Bidborough, Kent TN11 9AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Marlene Weller (The Hassles Limited) against the decision of Tunbridge Wells Borough Council.
 - The application Ref 20/01738/OUT, dated 13 July 2020, was refused by notice dated 12 October 2020.
 - The development proposed is an outline application for one residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised Framework¹ was published by the Government between the determination of the planning application and the appeal coming before me. It does not raise any new considerations in relation to this appeal and as such I have not sought comment from the main parties. I have had regard to the revised Framework in my decision.
3. The appellant included the site address within the description of the proposal. I have omitted it from the heading above as it is superfluous.
4. The proposal is in outline with all matters reserved.

Main Issues

5. The main issues are:
 - a) whether the proposed development would be inappropriate development in the Green Belt;
 - b) the effect of that development on the openness of the Green Belt;
 - c) whether or not the appeal site is an acceptable location for the development proposed, with specific regard to access to facilities;
 - d) the effect of the proposed development on the character and appearance of the area;
 - e) whether or not the proposed development would affect highway safety, with specific regard to the access arrangements; and

¹ National Planning Policy Framework (2021)

- f) would harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether or not the proposal is inappropriate development in the Green Belt

6. Paragraph 149(g) of the Framework identifies the partial or complete redevelopment of Previously Developed Land (PDL), whether redundant or in continuing use, as not being inappropriate development in the Green Belt. The appellant notes that the site could be considered to be PDL.
7. From my site visit I observed that the land appears to be on ground partially made up with rubble, topped in places with what appeared to be road chippings. There were some piles of brick and rubble on the site and pieces of timber. There was nothing to suggest that it had been previously developed. Even if there had previously been some form of development on the site, the remains have now blended into the landscape such that it would be excluded from the definition of PDL, as set out in Annex 2 of the Framework.
8. A disused silage pit adjacent to the site acts as a retaining structure to the made-up land. However, as agricultural buildings are also excluded from the definition of PDL by the Framework, this would not assist the appellant's case.
9. The proposal would not therefore represent the partial or complete redevelopment of PDL and as such, would not therefore fall within the exception listed in paragraph 149(g) of the Framework.
10. I therefore conclude that the proposal would be inappropriate development in the Green Belt, contrary to Policy MGB1 of the Local Plan², Policy CS2 of the Core Strategy³ and the Framework, which, amongst other things, seek to restrict inappropriate development in the Green Belt. By definition, inappropriate development would be harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework states that in considering a proposal substantial weight should be given to any harm to the Green Belt.

Openness and purpose of the Green Belt

11. The Framework also sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
12. Although the proposal is in outline, any new dwelling would represent built form where currently none exists. This would necessarily result in a significant loss of openness of the Green Belt. Accordingly, I conclude that the proposal would conflict with Paragraph 137 of the Framework.

Location

13. The site is located within the open countryside, to the south west of Tonbridge. In the interests of encouraging sustainable patterns of new development, the Local Plan and Core Strategy generally seek to avoid development, including

² Tunbridge Wells Local Plan (2006)

³ Tunbridge Wells Local Development Framework Core Strategy (2010)

new dwellings, being built outside of established settlements as they require less sustainable forms of travel in order to access facilities. This approach is broadly reflective of the Framework.

14. The site is said by the appellant to be within a short distance of bus services located along Upper Hayesden Lane, to the east and bus routes to the south along the B2176, Bidborough Ridge. However, the Council has demonstrated that the nearest bus stop would be over 1km away, a distance not disputed by the appellant. Access to the bus stops would be via rural lanes, which do not have dedicated footpaths or street lighting. As the roads are subject to the national speed limit, accessing these bus stops from the appeal site on foot would not be attractive to many people. For similar reasons, as well as the distances involved, cycling to larger centres from the appeal site to access facilities would not be attractive to many people.
15. Thus, if a resident at the appeal site needed to access local facilities, the most likely mode of transport would, it seems to me, be by car. This is the least sustainable travel option. I must therefore conclude that future occupants of the appeal site would be likely to rely on the use of the car with little usable or practical alternative such as public transport, walking/cycling etc. The principle of the proposed development with specific regard to access to facilities is therefore unacceptable in this location.
16. As such, the proposal conflicts with the requirements of Policy LBD1 of the Local Plan, Policies 4, 5, 6 and 14 of the Core Strategy and the provisions of the Framework which, among other things, seek to limit development in the open countryside and thus minimise less sustainable forms of travel when accessing local facilities.

Character and Appearance

17. The site is on a slight ridge and the landscape to the north is characterised by a plateau of arable fields occasionally interspersed with small groupings of buildings. This allows extensive panoramic views. On the opposite side of Upper Hayesdon Lane, the land, which is within an Area of Outstanding Natural Beauty, is more enclosed by trees and boundary planting. The undeveloped nature of the site contributes positively to the wider character of the area.
18. Although the proposal is in outline, it is described by the appellant as being modest, with the detailed design and land levels being subject to further consideration. Nevertheless, the erection of a single dwelling in this location would be prominent by virtue of the surrounding topography, regardless of the building's design or the precise finished floor level. It would be particularly visible from the group of former farm buildings immediately to the north of the site which have been converted to dwellings. Such a development would therefore undermine the undeveloped character of the landscape.
19. It seems to me that a dwelling in this location would inevitably lead to future occupiers wishing to take advantage of the views to the north. Tables, chairs, parasols etc. could reasonably be expected to be utilised, which would further undermine the rural character of the site. The appellant points to the option of removing permitted development rights. However, this would not stop such items from being used and any limitations on outbuildings would merely prevent such items from being stored and so lead to them becoming semi-permanent features, thereby further adding to the harm caused.

20. The proposal would cause harm to the character and appearance of the area. Accordingly, it would be contrary to Policies LBD1, EN1 and EN25 of the Local Plan, Policies 4, 5 and 14 of the Core Strategy and the Landscape Character Assessment⁴ which, amongst other things, seek to minimise the impact of development and conserve and enhance the landscape and local character of the area. The proposal would also be contrary to Paragraph 130 of the Framework which, amongst other things, seeks to ensure developments are sympathetic to local character, including landscape setting.

Access

21. Upper Hayesden Lane, onto which the site accesses, is subject to the national speed limit. The width and alignment of the road allows cars to be travelling quickly as they pass the site. The Council has indicated that a development of this nature, on this road, would require visibility splays of 160m x 2.4m. The appellant has not disputed this requirement. My observations, particularly whilst trying to exit the site, attest to the difficulties the current arrangements present. It is clear that improved visibility splays would be necessary to overcome the highway safety concerns a dwelling using the access would raise.
22. Aside from the potential harmful effect such works might have on the character and appearance of the area, I have no substantive evidence before me to demonstrate that the required visibility splays could be achieved. A drawing has been produced which purports to show the access, but it is not to scale and does not demonstrate that the required visibility splays could be achieved. Despite all matters being reserved, it would not be appropriate to grant a substantive permission whilst such significant reservations persist.
23. The appellant points to the nearby junction of Lower Hayesden Lane and Upper Hayesden Lane which is said to offer poor visibility and to which they assist by cutting back the hedgerow and verge. However, that does not detract from the significant highway safety concerns I have found in respect of the current proposal and access arrangements.
24. Accordingly, the proposal would be contrary to Policy TP4 of the Local Plan which, amongst other things, requires accesses to be able to provide adequate visibility. The proposal would also be contrary to Paragraph 111 of the Framework, which amongst other things, seeks to ensure developments are resisted if they would have an unacceptable impact on highway safety.

Other Considerations

25. Reference has been made by the appellant to the roll out of superfast fibre broadband in the area, which it is said would allow for access to goods and services. However, any limited weight that I could attribute to this would not negate the need to make certain journeys by car from the appeal site which, in other locations, could be made by more sustainable forms of transport.
26. I am aware of the Government's objective to significantly boost the supply of housing, along with their broad support for windfall sites. The scheme would lead to some, albeit time-limited, economic benefit during the construction phase, which may give rise to extra local employment. However, given the scale of the proposal this would attract only limited weight.

⁴ Tunbridge Wells Borough Landscape Character Assessment Supplementary Planning Document (2017)

27. The appellant considers the site to be of poor landscape value, but I have concluded otherwise. The land contains items of rubble, timber and tyres, but these do not significantly diminish its value to the undeveloped character of the landscape. I also note that such items would be within the control of the appellant and their removal is not dependent on the proposed development.
28. The appellant notes recent building works opposite the appeal site. However, as that is an extension to an existing building rather than a new dwelling, it is not directly comparable to the current appeal, which I must deal with on its own merits.

Other Matters

29. The Council acknowledges that it is unable to provide a five year supply of deliverable housing land. Accordingly, I must have regard to paragraph 11 of the Framework, which indicates that in such circumstances the most important policies for determining the application are out of date and that permission may be granted.
30. However, the balance in favour of the grant of planning permission at paragraph 11 d), is conditional on satisfying the first limb of whether there are policies in the Framework that protect areas of particular importance which provide a clear reason for refusing the development proposed. Green Belts are such a protected area and as I have identified, the proposal would represent inappropriate development which would cause harm to the openness of the Green Belt such that there would be conflict with paragraph 137 of the Framework. This paragraph seeks to limit the extent of development in these nationally important areas. As a result, the second limb of paragraph 11 d) and the balance in favour of the grant of planning permission would not apply.

Conclusion

31. The proposal would constitute inappropriate development in the Green Belt. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
32. The weight I give to the considerations cited in support of the proposal is limited, for the reasons I have given. Accordingly, they do not clearly outweigh the harm the development would cause. The very special circumstances necessary to justify the proposal do not therefore exist.
33. The development is contrary to the Framework and to the development plan which seek to protect the Green Belt and the character and appearance of the area, as well as resisting development in unacceptable locations in terms of accessibility and development that raises highway safety concerns. I have considered all other matters raised but none outweigh the conclusions I have reached.
34. For the reasons set out above, I dismiss the appeal.

Stewart Glassar

INSPECTOR