



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: 16th February 2022

Appeal Ref: APP/M3645/W/21/3274497

Kerlyn Farm, Dowlands Lane, Copthorne RH10 3HX

- 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 Ian Clarke against the decision of Tandridge District Council.
 - The application Ref TA/2020/1483, dated 18 August 2020, was refused by notice dated 9 December 2020.
 - The development proposed is the erection of a purpose designed office building with ancillary storage/packing areas on part of the sand school and paddock area to the northern end of the Kerlyn Farm site. The building will be used as a high quality office environment (falling within Class B1 Offices of the Use Classes Order) in connection with the owners long established business.
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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.
3. Subsequent to the planning application being submitted to the Council, the B1 Use Class was replaced by the new Class E. However, this change is not determinative in the consideration of the appeal.

Main Issues

4. The main issues are:
 - (a) whether the proposed development would be inappropriate development in the Green Belt;
 - (b) the effect of the proposed development on the character and appearance of the area;
 - (c) The effect of the proposed development on highway safety, with specific regard to the proposed access arrangements;
 - (d) The effect of the proposed development on flood risk;
 - (e) The effect of the proposed development on ecology; 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

5. 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 the officer report suggests that the site could be considered to be PDL, given the existing sand school on site.
6. Whilst the site might be considered to be PDL, in such situations I must also have regard to the second limb of paragraph 149(g) of the Framework. This specifically requires me to consider the effect of the proposed development on the openness of the Green Belt, in order to determine whether the exception applies.
7. The existing sand school is, by its very nature, largely open with minimal post and rail fencing to its perimeter. In contrast, the submitted drawings show a building with a footprint of 20m x 10m and a height of over 7m to its ridge. The Council estimates that it would have a volume of some 1,310m³, a figure not disputed by the appellant.
8. Given the size of the proposal, there would be a very noticeable loss of openness in the Green Belt when compared to the existing situation. On this basis, the proposal would not meet the second limb of paragraph 149(g) and so would not fall within this exception.
9. I therefore conclude that the proposal would be inappropriate development in the Green Belt, contrary to Policies DP10 and DP13 of the Local Plan² 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.

Character and Appearance

10. There is sporadic development along Dowlands Lane between the appeal site and Effingham Road. However, buildings are generally set back from their frontages, which along with the verges, contain extensive mature planting. Despite the nearby Copthorne Business Park and large area of hardstanding to the west of Dowlands Lane, the area has a rural and verdant character.
11. The appeal site would occupy the northern portion of the Kerlyn Farm site, where Dowlands Lane has a 90 degree bend. Those dwellings located opposite the site, are set well back from it. Thus, the immediate area has a largely undeveloped character to which the appeal site positively contributes.
12. I acknowledge that the proposal is for an overtly modern building rather than a pastiche of a dwelling and that the appellant has given consideration to the building's position on site. Nevertheless, the development of the site would

² Tandridge Local Plan Part 2: Detailed Policies (2014)

introduce a prominent building and associated infrastructure which would conflict with the prevailing undeveloped, rural character of the area.

13. Although there is a disagreement between the main parties as to the external materials to be used and their effect, I find that regardless of this, the development as a whole would have an adverse effect upon the character of the area. The bank/hedge screen proposed along the new access road may help to mitigate some views of the building from the existing dwelling at Kerlyn Farm. However, this together with the existing boundary planting is unlikely to provide sufficient screening for the development as a whole.
14. I therefore conclude that the proposal would have an adverse effect on the character and appearance of the area. It would fail to accord with Policy DP7 of the Local Plan and Policies CSP18 and CSP21 of the Core Strategy³ which, amongst other things, seek to ensure development respects the landscape and 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.

Highway Safety

15. The Highway Authority has indicated that a 2.4m x 120m visibility splay would be required for the access onto Dowlands Lane, which has a 40mph speed limit. Given the straight alignment of Dowlands Lane to the south, it appears that the necessary visibility in this direction could be provided. However, the 90-degree bend to the north of the site makes such a visibility splay unachievable in that direction.
16. I accept that the bend will help to reduce speeds of vehicles travelling around it and towards the proposed access. However, without a proper analysis of aspects such as the type and number of vehicles likely to be using the site, average speeds in this part of Dowlands Lane and numbers of movements, I cannot be certain that the appellant's suggested 2.4m x 24m visibility splay would be suitable and not cause highway safety issues. Although it is suggested that a condition requiring revised details could overcome this problem, given the evidence before me, it does not appear possible that the Council's required visibility splay could be provided in this direction or that the appellant's suggested alternative would necessarily be acceptable. As such, a condition would not overcome these fundamental issues and it would not be appropriate for me to grant a substantive permission without knowing that an acceptable solution could be achieved.
17. The appellant refers to the possible use of the existing access, which is closer to the apex of the bend. Aside from whether such a reconfiguration of the site layout might raise other unforeseen issues, I have no reason to believe that this access, which offers poor visibility in both directions, would be an attractive or realistic option for the proposed operations. Thus, it appears to me to be no more than a theoretical possibility and accordingly is a matter to which I attach limited weight.
18. Overall, I find on this issue that I have insufficient information to conclude that the proposed access would not result in an increased risk to highway safety. As such, it would be contrary to Policy DP5 of the Local Plan and Policy CSP12 of

³ Tandridge District Core Strategy (2008)

the Core Strategy which, amongst other things, require new development to have regard to highway standards and to not cause hazards to other road users. In this respect, I also note that the reason for refusal makes reference to the objectives of the Surrey Local Transport Plan which, amongst other things, includes seeking to improve road safety. The proposal would also be contrary to Paragraph 111 of the Framework, which amongst other things, seeks to ensure that developments are not permitted if there would be an unacceptable impact on highway safety.

Flood Risk

19. The main parties appear to be in agreement that the additional building and hardstanding on site would lead to an increase in surface water run-off. The appellant suggests that this is a matter which could be addressed through a condition, given the nature of the proposed use. However, given the scale of development and in the absence of any assessment regarding such matters as run-off rates, flooding events or the likely impact on the nearby watercourse, ditches or road, I have insufficient information to conclude that the proposal would not result in an unacceptable risk from flooding. Furthermore, without sufficient information to establish what appropriate mitigation measures could be put in place to prevent any flood risk from becoming unacceptable, I am unable to determine what would be the reasonable requirements of any condition.
20. Although reference is made to a new business use on the opposite side of the lane, I have no details before me. Accordingly, I have no evidence as to what surveys, assessments or information may or may not have been provided in relation to that particular site and the issue of flood risk. Furthermore, it does not detract from the absence of evidence provided in relation to the appeal which is before me.
21. Accordingly, the proposal would be contrary to Local Plan Policy DP21 and Policies CSP11 and CSP15 of the Core Strategy which, amongst other things, require proposals to address infrastructure requirements and implications, including matters such as surface water run-off. The proposal would also be contrary to Paragraph 167 of the Framework which, amongst other things, seeks to ensure that flood risk is not increased elsewhere as a result of new development.

Ecology

22. Despite the Council's suggestion that no ecological information has been submitted, the evidence provided by the appellant suggests that a document referred to as a Preliminary Ecological Survey but entitled Preliminary Ecological Appraisal (PEA) was sent to the Council prior to their decision.
23. The PEA does not appear to have been undertaken by a qualified ecologist and is somewhat limited in the information it contains. It was undertaken early in 2020 and partially outside the ideal time for undertaking such assessments. It does not contain any maps or appendices confirming the findings of the desktop study nor any guidance or measures to avoid or mitigate possible ecological impacts. However, I have no substantive evidence before me to suggest that its broad findings are inaccurate. From my observations of the site and surrounding area, its general conclusions would appear to be what one might reasonably expect from the site. I am therefore satisfied that on this

occasion the report provides a sufficient basis on which to conclude that the development could provide appropriate protection for the ecology of the area. Were I minded to allow the appeal, such matters could be addressed through appropriate conditions.

24. Accordingly, I have sufficient information to conclude that the proposal would not be likely to result in unacceptable harm to the ecology of the site or surrounding area and achieve a biodiversity net gain. As such, the proposal would accord with Policy DP19 of the Local Plan and Policy CSP17 of the Core Strategy which, amongst other things, seek to ensure development does not cause harm to habitats or ecological networks. The proposal would therefore also accord with Paragraph 174 of the Framework, which amongst other things, seeks to minimise impacts on biodiversity.

Other Considerations

25. The appellant has indicated that the existing business operations have outgrown the buildings at Kerlyn Farm and that a more modern and bespoke solution is required. However, as the nature of the business is said to require a secure and rural location, remaining at Kerlyn Farm would enable the business to continue to benefit from these factors. The proposal would also enable the current owners to retire from the business in due course yet remain living at Kerlyn Farm as they would be physically separate from the commercial operations. They would also be able to reuse the existing outbuildings for what are described as 'ancillary domestic purposes'.
26. Nevertheless, I have no evidence before me to demonstrate that there are not alternative sites which would meet the locational criteria of the business, and which would be less harmful to the Green Belt. Indeed, the appellant's statement notes that the business has operated for over 30 years but only been at this site for 13 years, indicating that the business is capable of operating from other sites. Whilst there would be some benefits for the current owners in terms of the business physically relocating away from the dwelling, and the Framework seeks to support the rural economy, this is within the overall context of a wider approach to protecting the Green Belt and its character. Accordingly, the weight I can give to these factors cited in support of the proposal is limited.
27. The location of the proposed building is also said to enable the owners to walk to the proposed building, whilst they remain active within the business. However, the owners do not currently generate any vehicle movements when accessing the existing operations and thus there would be no overall change in this respect.
28. The appellant suggests that the proposal would not be an over-development of the site, allowing sufficient space around the building, with existing boundary planting being retained. The limited objections from the Parish Council and absence of harm to nearby properties are also noted by the appellant. However, these factors would represent a lack of harm which would accordingly be neutral in any balance.
29. The appellant draws my attention to the land on the western side of Dowlands Lane, which it is said has been identified for redevelopment. This change to the character of the area would, it is suggested, provide a basis on which to also allow the redevelopment of the appeal site. I do not have any specific details

before me, but the Council points out that any proposals to remove land from the Green Belt would be subject to separate considerations outside the remit of this appeal. Even if a nearby site were not within the Green Belt, it would not change the appeal site being in the Green Belt and subsequently the matters to which I must have regard. I must consider the appeal proposal on its individual merits and with regard to its specific details. What may happen to other nearby land is not a matter to which I can attach weight in this instance.

Conclusion

30. I have found that the appeal scheme would be harmful to the Green Belt and its openness, constituting inappropriate development for the purposes of the Framework. I have identified other considerations advanced in favour of the proposed development but found these to be worthy of only limited weight for the reasons I have given. As such, they would be insufficient to justify the proposed development owing to the substantial weight that should be ascribed to any harm to the Green Belt. Very special circumstances do not therefore exist.
31. The development is contrary to the Framework and to the development plan which seek to protect the Green Belt, the character and appearance of the area, highway safety and areas from the risk of flooding. The fact that I have found in the appellant's favour with regard to any effects on ecology does not outweigh the totality of the harm I have identified and does not alter my conclusions. I have considered all other matters raised but none outweigh the conclusions I have reached.
32. For the reasons set out above, I dismiss the appeal.

Stewart Glassar

INSPECTOR