



Appeal Decision

Site visit made on 8 February 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2022

Appeal Ref: APP/G5180/W/21/3271385

Land Between Hope Cottage and Dunboyne, Grays Road, Westerham Hill, Kent TN16 2JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr John Clarke against the decision of the Council of the London Borough of Bromley.
 - The application Ref 20/03283/PIP, dated 27 August 2020, was refused by notice dated 20 January 2021.
 - The development proposed is two detached private dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the appellant on the appeal form does not match the name of the original applicant on the application form. The original applicant has since confirmed he is the appellant and I have listed him as such in the banner heading above.
3. The appeal proposal is for permission in principle. This consent route has two stages, the first stage establishes whether a site is suitable in principle, and the second stage, the technical details consent, is where the detailed development proposals are assessed. The appeal proposal is at the first stage and therefore I have only considered the principle of the scheme in respect of its location, land use and the amount of development proposed.

Main Issues

4. The main issues are: i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; ii) the effect of the proposal on the openness of the Green Belt; iii) the effect of the proposal on the character and appearance of the area, with specific regard to the North Kent Downs Area of Outstanding Natural Beauty (AONB); iv) the effect of the proposal on biodiversity; and v) if the proposal would constitute 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 allow the appeal.

Reasons

Whether Inappropriate Development

5. Paragraph 147 of the National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework states that other than in the case of specific exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Policy 49 of the Council's Local Plan (2019) (LP) reflects the Framework in these regards.
6. The appeal site is located within the Metropolitan Green Belt and it is proposed to erect two dwellings. There is no suggestion that the proposal may comprise any of the exceptions mentioned at Paragraph 149 of the Framework and the Council has referred to a previous appeal decision¹ where a different Inspector concluded the erection of two dwellings at the appeal site would not be within the settlement boundary and would not comprise limited infilling within a village. I have not seen any evidence to convince me that there has been any material change in circumstances at the appeal site since that decision and I agree with the reasoning of the previous Inspector in these regards. The proposal would therefore comprise inappropriate development in the Green Belt, in conflict with Policy 49 of the LP and the Framework.

Openness

7. The appeal site is a large open parcel of land between two short rows of detached houses on the edge of a cluster of dwellings in a spacious, rural setting. It stretches a long distance back from the highway and is mainly comprised of overgrown vegetation and trees with occasional mounds of earth and disused vehicles and machinery. The appellant has referred to buildings which may have existed on the land historically, but these are no longer present.
8. As it is only the principle of erecting two dwellings for which permission is sought, I have only been provided with a plan showing the potential proposed footprints of those dwellings. They would be positioned to the front of the appeal site, broadly in alignment with the neighbouring dwellings either side, and accompanied by detached garages. It is clear that the erection of two detached dwellings at the appeal site would have the effect of substantially infilling the large open space between existing houses where the spacious surroundings are a key characteristic of the Green Belt location.
9. Paragraph 138 of the Framework explains that one of the purposes for including land within the Green Belt is to safeguard the countryside from encroachment. Although the proposed dwellings could follow the pattern of development along this part of Grays Road, they would introduce significant built development within what is presently a large open plot providing typical spacious countryside views on a rural lane. The proposal would therefore harm the openness of the Green Belt, which is one of its essential characteristics, along with its permanence, contrary to the Framework.

¹ APP/G5180/W/16/3160908

Character and Appearance

10. The sparse and irregular forms of development along Grays Road are set within wider views of open countryside forming part of the landscape of the AONB. As an undeveloped, large open expanse of greenery between existing dwellings within the AONB, the appeal site makes a positive contribution to the rural character and appearance of the area. The proposal would combine two short rows of detached houses to create a much longer run of houses which would be uncharacteristically urban in character, along this rural lane.
11. The proposal would therefore urbanise this part of Grays Road and the built form of the proposal would detract from the rural landscape. In doing so, it would replace characteristic countryside views of a large undeveloped site and its unmanaged trees and vegetation which form part of the landscape and setting of the AONB. The Framework advises that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
12. The proposal would therefore harm the rural character and appearance of the area and the landscape and setting of the AONB, contrary to the advice set out at Paragraph 176 of the Framework and Policy 76 of the LP. Policy 76 states that the AONB and its setting will be protected, conserved and enhanced from development which would have a detrimental impact on its landscape.

Biodiversity

13. As a large undeveloped area of land which is covered in unmanaged vegetation, the appeal site has the potential to act as a habitat for various species of flora and fauna. Specifically, the Council has advised that a Site of Importance for Nature Conservation (SINC) abuts the appeal site to the north, and a neighbouring resident has referred to a badger sett at the northern end of their property, adjacent to the appeal site. I also note Natural England raised no objection to the proposal as they considered it would not have any significant adverse impacts on statutorily protected nature conservation sites.
14. Policy 69 of the LP seeks to avoid development which would significantly affect the nature conservation interest and value of SINC, amongst other things. However, no evidence has been presented to suggest the proposal would affect the adjacent SINC in any way. The extensive depth of the appeal site means that if the proposed dwellings were to be erected to the front of the appeal site, as indicated on the submitted plan, they would be a substantial distance away from the SINC and the badger sett.
15. In the absence of any likely significant adverse impacts on statutorily protected nature conservation sites or protected species, the large size of the site would provide many opportunities for a range of biodiversity mitigation and enhancement schemes. As permission is only sought in principle at this stage, and in the absence of any evidence to suggest any protected species would be likely to be harmed by the proposal, I am satisfied that details relating to the ecological impacts of the proposal and any necessary mitigation measures could be reasonably required at the technical details consent stage. The proposal would not therefore conflict with Policy 69 of the LP.

Other Considerations

16. The Council has advised it is unable to demonstrate a five year housing land supply. Where this is the case, Paragraph 11(d)i of the Framework advises that the development plan policies which are most important for determining the application are out of date and planning permission for new housing should be granted unless the application of policies in the Framework that protect the Green Belt or AONBs, amongst other things, provide a clear reason for refusing the development proposed.
17. Very special circumstances would need to exist to justify granting permission in principle for the proposal because it would constitute inappropriate development in the Green Belt, harm the openness of the Green Belt, and harm the landscape of the AONB. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, is clearly outweighed by other considerations. Paragraph 176 advises that great weight should be given to conserving and enhancing landscapes in AONBs.
18. The appellant has claimed that as redundant farmland the appeal site is a brownfield site and previously developed land, which should be developed to provide housing. The appellant has referred to a letter which is said to confirm the brownfield status of the land, but a copy of that letter has not been provided and neither has a detailed description of its contents. The Council refers to the conclusions of the previous Inspector where it was found that the appeal site did not comprise previously developed land at that time. I have not been presented with any evidence which shows the appeal site has a lawful use for any purposes other than for agriculture and from what I saw during my visit it did not appear to constitute previously developed land. Even if a number of buildings previously existed on the land at some point in the past, they were evidently not permanent features of the appeal site and there does not appear to have been any material change in circumstances since the previous appeal.
19. The glossary at Annex 2 of the Framework confirms previously developed land is land which is or was occupied by a permanent structure and does not include land that is or was last occupied by agricultural buildings or land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. In this context I cannot conclude the appeal site constitutes previously developed land.
20. No very special circumstances exist to outweigh the harm which would be caused to the Green Belt by the proposal by reason of its inappropriateness, its harm to the openness of the Green Belt, and its harm to the landscape of the AONB. The policies of the Framework therefore provide a clear reason for refusing to grant permission in principle for two detached dwellings at the appeal site.

Conclusion

21. I am satisfied that the effects of the proposal on biodiversity could be addressed at the technical matters stage; however, the proposal would be inappropriate development in the Green Belt and would harm its openness and the character and appearance of the AONB. For the reasons set out above, the harm identified would not be outweighed by any other considerations and the

very special circumstances required to justify the proposal have not been demonstrated. The appeal is therefore dismissed.

L Douglas

INSPECTOR