



Appeal Decision

Site visit made on 2 February 2022

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2022

Appeal Ref: APP/K2230/W/21/3275442

Ewhurst, Bowesden Lane, Shorne, GRAVESEND DA12 3LA

- 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 Mr Roy Leaney against the decision of Gravesham Borough Council.
 - The application Ref 20201254, dated 24 November 2020, was refused by notice dated 10 February 2021.
 - The development proposed is Outline Planning Permission for detached dwelling including means of access and siting.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On its decision notice the Council used a description of development that differs to that provided on the application form. I have used the original description as this adequately describes the proposed development.
3. Outline planning permission is sought with the matters of access and layout to be considered in detail. I have had regard to the access and layout details provided and have determined the appeal on that basis. Although plans have also been submitted of proposed elevations, floor plans and the street scene, the appellant has stated that these are for information purposes only and I have treated them as such.
4. The Council's reasons for refusal refer to the advice set out in "Section 9 (Protecting Green Belt)" of the National Planning Policy Framework. The appellant accepts this to be an error and that "Protecting Green Belt Land" is found under section 13. During the appeal, on 20 July 2021, the Government published its revised National Planning Policy Framework (the Framework). In the revised version the paragraphs of this section are renumbered but otherwise remain unaltered. The appeal timetable has allowed both parties the opportunity to make comments relating to the updated Framework.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;

- if it is inappropriate development, its effect on the openness of the Green Belt; and
- If the proposal would be inappropriate development, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development

6. The Council has not referred to any development plan policies in its refusal of the appeal proposal, instead relying on the Framework. The Framework states 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 makes it clear that new buildings are inappropriate in the Green Belt. However, exceptions are made. The appellant has referred me to exceptions (d); the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; (e) limited infilling in villages; and (g); 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.
7. The appeal proposal is to replace an existing annexe and utility room with a separate dwelling. It was clear from my site visit that the existing annexe accommodation is capable of being occupied independently of the main house, with the building's layout containing a kitchen area and a conservatory not shown on the submitted plans. However, no substantive evidence has been provided that indicates that the annexe is a separate dwelling. The appeal proposal would not, therefore, be a building in the same use as the building it would replace. The proposal would fail to comply with exception (d) of Paragraph 149 of the Framework.
8. The appellant accepts that the appeal site lies outside of a defined settlement boundary, as drawn on the Policies Map of the Council's Core Strategy 2014, but suggests that because it is situated within a cluster of residential dwellings on the edge of Shorne Ridgeway, the proposal could be considered as limited infilling in a village. I saw at my visit that the pattern of development noticeably changes from the more built-up area of Tanyard Hill and The Ridgeway, where there is a predominance of ordered, close knit urban grain, with houses mostly set near to each other and parallel to road lines, to that found travelling south along Bowesden Lane. The houses here appear more scattered, on larger plots and, as with the appeal site, the front building lines of the properties are more often set some distance back from the road. These obviously different patterns of development lead me to conclude that the area categorised by scattered, loose grained development lies outside the village. As such, I consider that the appeal site is not situated within a village and, therefore, the proposal would fail to comply with exception (e) of Paragraph 149 of the Framework.
9. It is common ground between the main parties that the proposal would result in the development of previously developed land, as defined in the Framework.

I have no reason to disagree with this view. As such, it is necessary to consider whether the proposal would have a greater impact on the openness of the Green Belt than the existing development.

Openness

10. The Framework indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It describes the essential characteristics of Green Belts as their openness and their permanence. The openness of the Green Belt has a spatial aspect as well as a visual aspect. While there is no definition of 'openness' in the Framework, it is commonly understood as the absence of built form or otherwise urbanising development.
11. The appeal site is a strip of land on the western side of Ewhurst, currently part of its extensive garden, occupied in part by a single storey annexe building and a single storey utility room. The front of the annexe aligns with the rear elevation of Ewhurst, which itself is set substantially back from the road behind a frontage of mature trees and hedging, lawn, driveway and parking areas. Although it is well screened from public view when travelling northwest along Bowesden Lane, a clear view of its side elevation is available across the front garden area of Chart House, a neighbouring property to the west of the appeal site. The annexe building is inconspicuous in this view, due to its single storey height and because of its position set back from the front elevation of Chart House. A sense of spaciousness between these dwellings is evident.
12. The appeal building would be located further forward in the site than the built form it would replace, thereby occupying space where currently no built form exists. It would be visible from the street, in the view referred to above. I have taken into account that scale and appearance are reserved matters. Nevertheless, given the stated intention of the appellant to provide a three-bedroom property, it is reasonable to consider that the proposal would have a far greater impact than the existing buildings. The appellant's layout plan indicates that there would be space each side of the dwelling and that an outbuilding would also be removed. However, the footprint of the proposal would be greater than which would be replaced and, consequently, it is highly likely that the proposed dwelling would be taller than the development to be removed.
13. In addition, a separate dwelling would lead to a greater intensity of activity on and around the site together with an additional boundary division. There would also likely be increased pressure for outbuildings and other domestic paraphernalia. The combination of these factors would result in a reduction in openness, both visually and spatially, which would be permanent. The proposal would have a greater impact on the openness of the Green Belt than the existing development.
14. Accordingly, the proposal would conflict with exception (g) of Paragraph 149 of the Framework. Therefore, the proposal would constitute inappropriate development, which by definition would be harmful to the Green Belt. As defined by the Framework, substantial weight should be given to that harm.

Other considerations

15. The appeal site lies within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar Site, an important wetland, providing wintering and breeding habitats for important wetland bird species, including migratory birds on passage. The proximity of the appeal site means that it cannot be excluded that the development would not have a likely significant effect on the SPA, either alone, or in combination with other plans or projects. I note that the appellant has made a payment to the Council in line with the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. However, it appears that neither he nor the Council has carried out an Appropriate Assessment, and there is insufficient information submitted for me to undertake one. Notwithstanding this, there is no need for me to consider the implications of this further, as I am dismissing the appeal for other reasons.
16. The Council has advised that it cannot demonstrate a five year supply of deliverable housing sites. Therefore, in accordance with Paragraph 11 d) of the Framework, the so called 'tilted balance' may apply. However, land designated as Green Belt is an area of particular importance protected by policies in the Framework. In applying its policies concerning the Green Belt, I have identified the proposal would represent inappropriate development which would cause harm to the openness of the Green Belt. This would be in conflict with Paragraph 137 of the Framework. This paragraph seeks to limit the extent of development in these nationally important areas. Accordingly, the presumption in favour of sustainable development under Paragraph 11 d) does not apply.
17. The proposal would contribute to the housing mix and supply in the area by the delivery of a single dwelling, utilising previously developed land. The proposal would boost the supply of housing as required by the Framework. The Framework recognises the important contribution that small and medium sized sites can contribute to meeting the housing requirement of an area. I afford these benefits modest weight commensurate with the quantum of development proposed.
18. I acknowledge that the proposal could be designed to avoid harm to the character and appearance of the area and could provide satisfactory living conditions for future occupiers without harming the living conditions of the occupiers of neighbouring properties. However, these matters are all requirements of the development plan and are not benefits that weigh in favour of the proposal.

Balancing of considerations

19. The Framework makes it clear at Paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
20. The proposal would be inappropriate development in the Green Belt and would result in the loss of its openness. These matters carry substantial weight. For the above reasons, I attach no more than modest weight to the other considerations cited. As such, they do not clearly outweigh the harm to the Green Belt which would result from the appeal proposal. Consequently, the

very special circumstances necessary to justify the proposed development do not exist. The proposed development would conflict with the Framework.

Conclusion

21. For the above reasons the appeal is dismissed.

S Tudhope

INSPECTOR