
Appeal Decision

Site visit made on 15 March 2022 by Emma Grierson BSc (Hons) MSc MRPTI

Decision by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2022

Appeal Ref: APP/M2270/W/21/3281823

Land at Sychem Place, Five Oak Green, Tonbridge TN12 6TR

- 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 Ed Middleton (Court Developments) against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/00069/FULL, dated 8 January 2021, was refused by notice dated 15 April 2021.
 - The development proposed is 2 dwellings, parking, landscaping and alterations to access.
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Decision

1. The appeal is allowed and planning permission is granted for 2 dwellings, parking, landscaping and alterations to access at Land at Sychem Place, Five Oak Green, Tonbridge TN12 6TR in accordance with the terms of the application, Ref 21/00069/FULL, dated 8 January 2021, and subject to the conditions contained in the schedule to this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in the appeal are whether the proposal is for inappropriate development within the Green Belt, having regard to the revised National Planning Policy Framework (the 'Framework') and relevant development plan policies, and the effects of the proposed development with respect to its design in the context of local character.

Reasons for the Recommendation

4. The appeal site is an area of land to the rear of the dwellings on Sychem Lane. It is located between an existing commercial yard and a site where six dwellings are currently under construction. The site is currently free from any built form, being used as storage for the adjacent construction works. Access is via an existing road from Sychem Lane, shared with the commercial yard and six new dwellings. The site is located within the Green Belt and on the edge of the village of Five Oak Green. The development proposed is a pair of two-storey semi-detached dwellings.
5. Paragraph 149 of the Framework indicates that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions.

These exceptions include the limited infilling of villages. Policy MGB1 of the Tunbridge Wells Borough Local Plan (2006) does not include this exception within the list of development that would be permitted in the Green Belt. The exception list within this policy is relatively narrow and contrasts with the developments listed within the wording of Paragraph 149 of the Framework. However, it does indicate that the openness of the Green Belt will be preserved and no development which would conflict with the purposes of including land within it will be permitted. Therefore, the general aims are consistent with that of the Framework.

6. The Council make reference to the neighbouring site where planning permission¹ has been granted for six new dwellings within the Green Belt. Whilst this is a material consideration in relation to the setting of the appeal site and the proposed development, the proposal is entirely separate from this neighbouring scheme and therefore will be considered as such.
7. The appeal site would be considered to fall within a village location, as part of Five Oak Green, and would be fully enclosed by existing development around the site. Although it is currently intended that the appeal site forms an open green as part of the neighbouring scheme, it is not open countryside and already forms part of a domestic site. The proposed development would therefore amount to infilling within a village.
8. The proposal is for one building comprised of two dwellings, similar in scale and design to neighbouring properties. The proposed dwellings would comfortably fit within the appeal site and it would not appear cramped or over developed as a result. There is no specific definition of the term 'limited' within the Framework. However, due to the minimal nature of the proposed development compared to the size of the site, it would be reasonable to consider it as limited development. Consequently, the proposal would be considered as limited infilling in a village. It is not necessary to consider the effect of the proposed development on the openness of the Green Belt under this exception.
9. The design of the two proposed dwellings would be similar to the semi-detached dwellings currently under construction within the neighbouring scheme and it is noted that semi-detached properties are a common feature within the surrounding area. The proposal would therefore be in keeping with other built form in the surrounding area. Furthermore, due to the enclosed nature of the site, as discussed above, the proposal would have little impact on the surrounding countryside and its open landscape character.
10. Therefore, the development would not be inappropriate development in the Green Belt as it would fall under the exception listed in paragraph 149 (e) of the Framework. It would comply with Policy CP2 of the Tunbridge Wells Core Strategy (2010) and Policies MGB1 and EN1 of the Tunbridge Wells Borough Local Plan (2006). These policies collectively seek to protect the Green Belt and also to ensure that the design of the proposal would respect the context of the site and would not result in the loss of significant features important to the character of the built-up area or landscape. The proposal would also comply with the Green Belt objectives within the Framework.

¹ 20/02271/FULL (the neighbouring scheme)

11. The Council have stated that Policy LBD1 of the Tunbridge Wells Borough Local Plan (2006) is no longer relevant for new housing as the Council cannot demonstrate a five-year housing land supply.

Other Matters

12. The Council have raised concerns regarding the absence of open space, stating that there is no opportunity to offset the development through the provision of open space for informal play/recreation. However, the proposed dwellings have adequately sized gardens and no evidence has been provided to suggest that there is a policy requirement for public open space for developments of two dwellings.
13. The proposal would be located on land to be used as open space within the neighbouring scheme, with the Council stating that the long-term retention of this has been secured via condition and that the proposed development would compromise the layout and spaciousness of this neighbouring site. However, the proposed development must be assessed as applied for and any conflict between approvals is not for this appeal.
14. The Council have highlighted a limited loss of employment facilities within their report. However, as the site is currently being used as part of the neighbouring scheme, no loss of permanent employment facilities would occur.

Conditions

15. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. A condition requiring that details of the proposed external materials are submitted to the Council for approval is also necessary to ensure an appropriate appearance for the development.
16. Conditions suggested by the Council in relation to the retention of parking, access and turning are necessary to ensure that the development does not impact highway safety. Furthermore, conditions requiring details to be submitted to the Council for approval regarding refuse storage, finished floor levels, surface water drainage, drainage maintenance, landscaping and boundary treatments and conditions to protect trees around the site and remediate contaminated land are considered necessary to limit the impact of the proposed development on the surrounding area.
17. A condition suggested by the Council to restrict permitted development rights has not been included as it has not been shown that this would be necessary to make the development acceptable. A condition requiring the details of electric vehicle charging points and external lighting is unreasonable for a development of this size, as no policy requirement has been demonstrated, and therefore this condition has also not been included.

Conclusion and Recommendation

18. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal be allowed.

Emma Grierson

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

B J Sims

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings 2020/5698/004 P3 (April 2021), 06 (August 2020), 071 (July 2020) and 08B (August 2020).
- 3) Notwithstanding the submitted details, written details and samples or photographs, including source/manufacturer of bricks, tiles and cladding materials to be used externally, shall be submitted to and approved in writing by the Local Planning Authority before commencement of any above ground construction works hereby approved and the development shall be carried out using the approved external materials.
- 4) The area shown on the approved drawings as vehicle parking space, access, and turning shall be provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority before the use is commenced, and shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking, turning and access space.
- 5) Before any building is occupied, details for the storage of refuse shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of the development hereby approved, details of the finished floor level for the development (shown in context with finished floor levels for the adjacent development for six dwellings) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) The approved development shall be carried out in such a manner as to avoid damage to the existing trees, including their root systems, and other planting to be retained by observing the following:

- a) All trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with the current edition of BS 5837. Such tree protection measures shall remain throughout the period of construction;
 - b) No fires shall be lit within the spread of branches or upwind of the trees and other vegetation;
 - c) No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation;
 - d) No roots over 50mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or Root Protection Areas of the trees and other vegetation;
 - e) Ground levels within the spread of the branches or Root Protection Areas (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority; and
 - f) No trenches for underground services shall be commenced within the Root Protection Areas of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.
- 8) Notwithstanding the submitted details, development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to, and approved in writing by, the local planning authority.

The drainage scheme shall, as far as practicable, avoid interference with the root systems of the perimeter trees on the site.

The drainage scheme shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of without increasing flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

The drainage scheme shall be implemented in accordance with the approved details prior to first occupation of the development (or within an agreed implementation schedule).

- 9) No building hereby permitted shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to and approved in writing by the local planning authority. The manual at a minimum shall include the following details:
- A description of the drainage system and its key components

- A general arrangement plan with the location of drainage measures and critical features clearly marked
- An approximate timetable for the implementation of the drainage system
- Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities
- Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime

The drainage scheme as approved shall subsequently be maintained in accordance with these details.

10) If during construction works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of:

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

11) Prior to the commencement of the development hereby approved, a landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion of the development.

Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written permission to any variation.

12) Prior to the commencement of the development hereby approved, details of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and retained in accordance with the approved details.