



Appeal Decision

Site visit made on 4 May 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/H2265/W/21/3277995

**Land to the East of the Dene, 66 Sevenoaks Road, Borough Green,
Sevenoaks TN15 8AP, Grid Ref Easting: 560456, Grid Ref Northing: 157526**

- 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 Phil Standen against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/00805/FL, dated 18 March 2021, was refused by notice dated 13 May 2021.
 - The development proposed is the erection of 2 new detached dwellings with associated garaging, landscaping and ecology enhancements.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 new detached dwellings with associated garaging, landscaping and ecology enhancements at Land to the East of the Dene, 66 Sevenoaks Road, Borough Green, Sevenoaks TN15 8AP, Grid Ref Easting: 560456, Grid Ref Northing: 157526 in accordance with the terms of the application, Ref TM/21/00805/FL, dated 18 March 2021, subject to the attached Schedule of Conditions.

Main Issue

2. The main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

Reasons

3. The appeal site is a parcel of land located between 64A and 66A Sevenoaks Road, south of Westbank Care Home. It forms part of a cluster of plots located some distance north of Sevenoaks Road, behind the houses facing directly onto that road and beyond the intervening railway line and H + H Celcon Block Manufacturing Facility. This cluster of plots is within the Metropolitan Green Belt and outside the settlement boundary of the village of Borough Green as defined by the Tonbridge and Malling Borough Core Strategy (2007) (CS).
4. Paragraph 147 of 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. Policy CP3 of the CS requires national policy to be applied in respect of Green Belts. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt, but exceptions are listed. Paragraph 149(e) confirms that limited infilling in villages would not be inappropriate development in the Green Belt.

5. The main parties have referred to *Julian Wood v SSCLG, Gravesham Borough Council* [2015] EWCA Civ 195, where it was agreed that a village boundary defined in a local plan may not be determinative for the purposes of ascertaining whether a site is within a village, and that regard should be had to the situation 'on the ground'. The council consider the cluster of plots at 64A to 66 Sevenoaks Road, and thus the appeal site, lie outside the boundary of the village of Borough Green.
6. The appeal site is accessed by a metalled driveway which runs between 62 and 68 Sevenoaks Road and under a railway bridge. The driveway runs along the rear gardens of houses in a modern estate to the east and adjoins that estate by what the council refer to as a temporary and emergency access gate into a parking area on Dene Lodge Close. I saw that access was open and clear and did not appear to be temporary or used exclusively as an emergency access. It is a very short walk from the appeal site into the housing estate and to the junction of the driveway with Sevenoaks Road. The council consider the housing estate and the junction of the driveway with Sevenoaks Road to be located within the village.
7. I noted a difference between the more urban character and appearance of the densely developed housing estate and the immediate surroundings of the junction of the driveway with Sevenoaks Road, compared to the more sparsely developed and secluded nature of 64A – 66 Sevenoaks Road. That feeling of seclusion is a result of mature planting and spacious plots which are elevated a substantial height above the excavated block manufacturing site to the south and west and bordered by open fields to the north. There is a clear distinction between the residential setting of 64A – 66 Sevenoaks Road and the surrounding land to the north, south and west. In this context, development at 64A – 66 Sevenoaks Road feels more closely aligned with the village than the countryside.
8. The presence of the housing estate to the east is an unavoidable feature of the driveway which adjoins 64A Sevenoaks Road. Many of the village's services and transport links are also located within close walking distance of 64A – 66 Sevenoaks Road. The cluster of plots at 64A – 66 Sevenoaks Road are not therefore experienced as physically or functionally separate from the rest of the village. Instead, they are viewed and experienced as a secluded group of buildings on the outskirts of, but within, Borough Green. They have the appearance of a low density residential part of the village, rather than a rural location outside of the village.
9. Although the appeal site is accessed by a relatively long driveway and is set within more spacious surroundings in comparison to most other buildings within the village, these factors do not convince me that the appeal site is located outside the boundary of the village. Based on the situation 'on the ground', I consider 64A – 66 Sevenoaks Road, and thus the appeal site, to be located within the village of Borough Green. This is on account of the proximity, physical connection and integration of those plots to the housing estate to the east, Sevenoaks Road, and the village's services and transport links without significant intervening barriers or separation.
10. The appeal site is a gap located between 64A and 66A Sevenoaks Road. It appears as a distinctly separate parcel of land on account of its existing access onto the private driveway and boundary planting. Both of those neighbouring

properties comprise large plots with substantial gardens bordering the private driveway. In this setting, the distance between the houses at 64A and 66A Sevenoaks Road does not suggest that the proposal would constitute anything other than infilling between those plots. The two proposed detached dwellings, each with a detached garage, would comprise limited infilling of the gap, within the village.

11. The proposed development would not therefore constitute inappropriate development on account of it falling within the exception set out at paragraph 149(e) of the Framework and there would be no conflict with Policy CP3 of the CS. There is no need for me to consider the impact of the proposal on the openness of the Green Belt or whether any very special circumstances exist to justify the proposal.

Other Matters

12. I note an objection to the proposal on the grounds that the driveway is not suitable to take further traffic and that construction vehicles would cause highway safety problems. I saw the driveway would appear incapable of accommodating a two-way flow of traffic, but the increase in vehicle and pedestrian movements resulting from two additional dwellings would be small and all vehicles using the driveway would be forced to travel at low speeds, as is presently the case. It is therefore unlikely that any additional traffic movements associated with the proposal would harm highway safety. With regard to the impact of construction vehicles accessing the appeal site, those temporary vehicle movements could be appropriately controlled through a condition to avoid unacceptable harm to highway safety.

Conditions

13. A condition is necessary requiring the commencement of development within the relevant timeframe, and a condition specifying the approved plans would be necessary in the interests of clarity. Annotations on those plans indicate the external materials of the proposed development, and it would be reasonable and necessary in the interests of the character and appearance of the area to attach a condition requiring the external materials to accord with those annotations.
14. As referred to above, a condition would be necessary to control construction vehicle movements. It is therefore reasonable to require, before the commencement of development, the approval of a Construction Method Statement with regard to access arrangements to the appeal site for plant, machinery and delivery of materials throughout the construction process.
15. The council has suggested a condition requiring the submission of a noise report detailing the current noise climate at the appeal site due to the proximity of the M20. Considering the appeal site is some distance from the M20, and taking the contents of the council's officer report into account, this appears to be an error. The officer report states that the council's Environmental Protection Team referred to the proximity of the H + H Celcon Block Manufacturing Facility and the potential for noise which may affect the living conditions of future residents. I have therefore attached a condition which would meet the tests set out at paragraph 56 of the Framework, requiring the approval of a scheme to protect future residents from any noise

created by the H + H Celcon Block Manufacturing Facility to the south and west of the appeal site.

16. The proximity of the H + H Celcon Block Manufacturing Facility was also referred to by the council when suggesting conditions relating to the potential for land contamination at the appeal site. On account of the potential for land contamination it would be reasonable and necessary for further details in this regard to be approved prior to the commencement of development. This would be to protect residents from any harmful effects associated with any contamination. Conditions requiring remediation of any contamination found prior to the commencement of development, and the cessation of development and notification of the council if any unexpected contamination is found during construction works would also be necessary for the same reasons.
17. The proposed site plan shows the positions of existing trees and hedgerows to be retained and proposed new planting. There are no details of the species of all proposed planting, and it would therefore be reasonable and necessary to require further details of all landscaping, including boundary treatments, to be approved prior to the commencement of development. A condition requiring the implementation of the landscaping scheme and the replacement of trees or plants which may be damaged or die within 5 years would also be reasonable, in the interests of the character and appearance of the area.
18. The council's officer report states 2 parking spaces would be required to serve each dwelling, which are shown on the proposed site plan. It would therefore be reasonable and necessary to attach a condition requiring the provision of those parking spaces and the turning areas shown on that plan prior to the first occupation of either dwelling, and their retention thereafter, in the interests of highway safety. It would be unnecessary for this condition to refer to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed.

L Douglas

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: 500/PS/001, 500/PS/002, 500/PS/003/A, 500/PS/004/A, 500/PS/005, 500/PS/006/A, and 500/PS/007.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plans 500/PS/004/A, 500/PS/005, 500/PS/006/A, and 500/PS/007.
- 4) No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The Statement shall provide for access arrangements to the site for plant, machinery and delivery of materials throughout the construction of the development hereby permitted.
- 5) No development shall commence until a scheme for protecting the future occupants of the dwellings hereby permitted from noise from the H + H Celcon Block Manufacturing Facility to the south and west of the site, has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any dwelling hereby permitted is occupied and retained thereafter.
- 6) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping and boundary treatment. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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 similar size and species.
- 8) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include: a survey of the extent, scale and nature of contamination; and the potential risks to human health, property (existing and proposed), adjoining land, and ground waters and surface waters.
- 9) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been

submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is first occupied.

- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 11) No dwelling hereby permitted shall be first occupied until space has been laid out within the plot of each dwelling in accordance with drawing no. 500/PS/003/A for 2 cars to be parked per dwelling and for vehicles to turn within the plot of each dwelling so that they may enter and leave each plot in forward gear and those spaces shall thereafter be kept available at all times for those purposes.