
Appeal Decision

Site visit made on 13 June 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2022

Appeal Ref: APP/M3645/W/21/3284689

Hogsbank, Farleigh Court Road, Warlingham CR6 9PX

- 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 G Guffogg against the decision of Tandridge District Council.
 - The application Ref TA/2021/837, dated 27 April 2021, was refused by notice dated 19 August 2021.
 - The development proposed is demolition of the commercial buildings and dwelling. Erection of 2 x 3-bedroom and 4 x 4-bedroom (6 total) dwellings with associated landscaping, access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development as it is shown on the appeal form and the decision notice since, whilst not matching the description on the application form, accurately describes the revised proposal. The description has been agreed by the main parties and I have therefore determined the appeal on this basis.
3. The officer report refers to the relevant policies of the Emerging Tandridge Local Plan 2033. However, the evidence before me does not indicate that the emerging plan is at an advanced stage of preparation and the extent to which there are unresolved objections to the relevant policies is unknown. These policies therefore carry little weight.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the development plan and the National Planning Policy Framework (the Framework);
 - The effect of the proposal on the supply of employment land in the District;
 - The effect of the proposal on the character and appearance of the area, including the Area of Great Landscape Value;
 - The effect of the proposal on land and groundwater contamination;
 - The effect of the proposal on ecology, including protected species;

- Whether the proposal makes adequate provision for parking spaces and cycle storage; and
- If it is 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 justify the development.

Reasons

Whether inappropriate development

5. The appeal site comprises a group of commercial buildings and a dwelling in a rural location to the south of Farleigh Court Road. Adjacent to the buildings are large areas of hardstanding, which are used mainly for parking, manoeuvring and storage, and there are some grassed areas, trees and hedges to the site perimeters. The site is within the Green Belt.
6. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies (2014) (Local Plan) states that inappropriate development is, by definition, harmful to the Green Belt and will normally be refused. This reflects the approach set out in paragraph 147 of the Framework. Policy DP13 of the Local Plan sets out that unless very special circumstances can be clearly demonstrated, the Council will regard the construction of new buildings as inappropriate in the Green Belt, subject to certain exceptions. This approach is consistent with paragraph 149 of the Framework.
7. One of the exceptions to inappropriate development is set out in paragraph 149 (g) of the Framework and Policy DP13 (G). This involves the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. The Framework also states that the essential characteristics of Green Belts are their openness and permanence. Openness has both spatial and visual aspects.
8. The site comprises previously developed land. The appellant's calculations indicate that the proposed development would represent a considerable reduction in both footprint and volume compared to the existing buildings on the site. The Council does not dispute this and I have no evidence before me that would lead me to reach a different conclusion. However, consideration of openness is also influenced by other factors such as the relationship in terms of scale, massing, height and form.
9. Whilst the existing buildings on the site are large, they are grouped together in the centre of the site which reduces their impact on Green Belt openness to some extent. In contrast, the proposed dwellings would be scattered across a larger part of the site and be situated closer to the northern and southern boundaries of the site than the existing buildings. The proposed dwellings on Plots 1 and 2 in the northern part of the site and Plots 5 and 6 at the southern end would be situated outside the footprints of the existing buildings on land that is currently open. These would be substantial two storey dwellings which would inevitably reduce the openness of the Green Belt in spatial terms.
10. Due to the proximity of Plots 1 and 2 to the northern site boundary, the proposed development would be more prominent than the existing buildings when viewed from Farleigh Court Road. Furthermore, the development would

be visible from the neighbouring dwellings and their gardens. The provision of detached garages, new boundary treatments and large curtilages with associated domestic paraphernalia would emphasize the prominence of the development. Compared to the existing level of activity that takes place on the site, including the external storage of goods and delivery of them, the creation of domestic curtilages and associated paraphernalia would have a greater impact on the openness of the Green Belt. Notwithstanding the reduced footprint and volume of the development compared to the existing buildings, and the retention of trees and a comprehensive landscaping scheme in place of existing hard standings, I consider that in visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing situation.

11. For the above reasons, I conclude that the proposed development would have a greater impact on the openness of the Green Belt than the existing development. It would therefore constitute inappropriate development in the Green Belt. Such development is, by definition, harmful and is contrary to Policies DP10 and DP13 of the Local Plan, and the Framework, which seek, amongst other things, to protect the Green Belt. The resultant harm should be given substantial weight in determining the appeal in accordance with paragraph 148 of the Framework.

Supply of employment land

12. The evidence indicates that the appeal site is currently used for storage, assembly, repair and sale of vehicles and general storage and distribution. The redevelopment of the site would reduce the amount of available employment land available, albeit to a limited extent. Nevertheless, the Tandridge Strategic Economic Assessment 2018 identifies a trend in loss of employment sites in the District, which is an important consideration.
13. Policy DP4 of the Local Plan refers to the alternative use of existing commercial and industrial sites being permitted only where it can be demonstrated that the site is unsuitably located, for example because of inadequate access for heavy goods vehicles, potential harm to neighbouring amenity and that such issues cannot be mitigated, or, that the current business is no longer viable which should be demonstrated through a 12 month marketing exercise. No case is put by the appellant on the second of the two criteria in this policy. Only one needs to be satisfied for the policy to be complied with.
14. In terms of the first, the policy uses the term 'for example' when referring to inadequate access for heavy goods vehicles. The policy does not therefore solely apply to such heavy goods vehicles. Nevertheless, I accept that the use of the site for commercial purposes is constrained to some extent by the narrow, winding nature of the lane, particularly in terms of access for heavy goods vehicles. There is a road sign at the entrance to Farleigh Court Road which is likely to deter access by heavy goods vehicles. However, that does not demonstrate that the site is unsuitable for employment purposes such as those which currently take place on the site. There is no substantive evidence before me to show that high volumes of heavy goods vehicles currently visit the site. The current occupation of the buildings for business purposes indicates that they are commercially viable despite the access constraints. Moreover, I have not been made aware of any attempts to address the access constraints.
15. The site is close to neighbouring residential properties. However, there is no evidence before me of any environmental health complaints from neighbouring

residents in relation to the commercial operations on the site. That indicates that the existing businesses on the site do not typically generate high levels of noise and disturbance. There is no compelling evidence that continued employment use would have an unacceptable impact on the surrounding area or that it would generate more movements along the lane. However, my finding in this respect does not change my view that the site is not unsuitably located.

16. For the above reasons, I conclude that the proposal would result in the unacceptable loss of a site which could be used for employment purposes. It would be contrary to Policy DP4 of the Local Plan, as set out above.

Character and appearance

17. The surrounding countryside is interspersed with occasional dwellings and agricultural buildings. This provides a pleasant rural character which contributes positively to the area. It lies within the Area of Great Landscape Value. Whilst the existing commercial buildings are large utilitarian structures, their general design and materials are not dissimilar to agricultural buildings typically found in the wider countryside. They are set back into the site some distance from the road. For this reason, the existing buildings do not unduly detract from their rural setting.
18. The proposed dwellings would be substantial two storey properties with three or four bedrooms and detached or shared garages. The footprint to plot ratio and density of the development would be more intensive than neighbouring built form. In contrast to the more spacious and loose arrangement of properties along Farleigh Court Road, the proposed dwellings have little space between them and would be close to the site boundaries in a suburban type cul-de-sac layout. In particular, Plots 1, 2, 5 and 6 would extend closer to the site boundaries. I have reasoned above that they would be harmful to the openness of the site, but they would also be harmful to the rural setting of the site. The regimented appearance of Plots 1 and 2 at the front of the site would emphasise the suburban appearance of the development. The proposal would make an efficient use of the site, however this should not be at the expense of the character of the area. I consider that the proposal would lead to an overdevelopment of the site at odds with the character of the area.
19. The provision of domestic curtilages, driveways, parked vehicles, new boundary treatments, and domestic paraphernalia associated with residential occupation would increase the prominence of the development and would be harmful to the character of the countryside.
20. For these reasons, although the development would have a smaller overall footprint and volume than the existing buildings, I consider that the development proposal would be more harmful to the character and appearance of the area than the existing situation.
21. Whilst the proposal would provide the opportunity to provide a landscaping scheme in place of the existing hardstanding, the development would also result in large areas of hardstanding as a result of the new access road and driveways. Moreover, a landscaping scheme would take some time to mature and would be unlikely to screen the dwellings on Plots 1 and 2, particularly during the summer months. Such screening would not sufficiently mitigate the harm to the rural landscape.

22. Therefore, notwithstanding the amendments that have been made to the layout and design of the scheme and that it has sought to respond to the Surrey vernacular, I conclude that the proposals would be harmful to the character and appearance of the area, including the Area of Great Landscape Value, and would therefore be contrary to Policies CSP18, CSP20 and CSP21 of the Tandridge District Core Strategy (2008) (Core Strategy), and Policy DP7 of the Local Plan. Amongst other things, these policies seek to ensure that development reflects and respects character and local context, conserves and enhances landscape character, including that of the Area of Great Landscape Value, and not result in overdevelopment.

Land and groundwater contamination

23. Due to the previous uses on the site, the Environment Agency has concerns around land contamination, and identifies that the site is underlain by an aquifer with a consequent risk of pollution to groundwater sources. In response to the Environment Agency request, a Phase I Geoenvironmental Desk Study Report was submitted with the appeal. This concludes that there is a moderate risk to human health, environmental and structural receptors. The Report identifies on site made ground, asbestos containing materials and bacteriological pathogens as a result of a former piggery and from storage of associated plant machinery. It also finds that the hydrological and hydrogeological setting of the site is relatively low; and that very significant soluble rocks are likely to be present with a moderate possibility of localised natural subsidence or dissolution related degradation of bedrock.
24. The Report recommends that a Phase II geoenvironmental investigation be undertaken to allow an assessment of the underlying ground conditions to determine if potentially complete pollution linkages are present. As a result of the known soluble rock risks, geotechnical and further geoenvironmental investigations are also recommended. Given this need for further investigation, and taking a precautionary approach, I cannot be certain that there would not be a risk as a result of land and groundwater contamination or that any remedial treatment necessary would satisfactorily deal with any contamination or soluble rock risk. Since these matters could determine whether the proposal is acceptable in principle, requiring the further investigations by condition would not be appropriate.
25. I conclude that it has not been demonstrated that the proposal would not result in an unacceptable impact on land contamination and groundwater contamination. The proposal would be contrary to Policy DP21 of the Local Plan which seeks, amongst other things, to ensure that proposals avoid damage to Groundwater Source Protection Zones. The proposal would also conflict with paragraph 183 of the Framework, which requires that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination, and that adequate site investigations are available to inform these assessments.

Ecology

26. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on me to have regard to the likelihood of European Protected Species being present at the site and affected by the proposed development. The Preliminary Ecological Appraisal (the Appraisal) concludes that with

appropriate mitigation, the proposal would have a negligible impact on biodiversity while the proposed enhancements may result in biodiversity gains.

27. The Appraisal found that the existing buildings on the site had negligible potential for roosting bats. Although a small number of pipistrelle droppings were noted to the northern end of Building B01, this was likely to be from foraging bats rather than evidence of a bat roost. Two trees to the north-east corner of the site (T01 and T02) were considered to have low to moderate potential for roosting bats. The Wildlife Trust consider that further surveys would be required should these trees be scheduled for removal. Although the appellant indicated initially that T02 would need to be removed for safety reasons, it has since been confirmed that this tree can be retained. Due to the distance between these trees and the footprint of the dwelling on Plot 1 and the new driveway, I consider that it would be possible to retain both trees as part of a landscaping scheme. On that basis, there is unlikely to be a significant impact on bats and further survey work would not be required.
28. Therefore, I conclude that there would be no adverse effect on ecology, including protected species. The proposal would comply with Policy CSP17 of the Core Strategy and Policy DP19 of the Local Plan, which, amongst other things, seek to ensure that development proposals protect biodiversity, avoiding harm to protected species. It would also not conflict with paragraphs 179 and 180 of the Framework, which require proposals to protect and enhance biodiversity.

Parking and cycle storage

29. The Tandridge Parking Standards Supplementary Planning Document (2012) (SPD) requires 3 bedroom dwellings to have 2 parking spaces and 4 bedroom dwellings to have 3 parking spaces. On that basis, the proposed development would require a total of 16 parking spaces plus 1 additional space per 4 dwellings. The application form indicates that 20 spaces would be provided on the site, whilst 17 spaces are indicated on the plans, including 7 garage spaces.
30. The SPD defines the minimum size of a garage space for cars as 7.0m x 3.0m or 5.5m x 3.6m (internal dimension). The SPD considers garages of this size and over to be large enough for the average sized family car and cycles, as well as some storage space. The single garage spaces would measure externally about 6.2m by 3.2m and the double garages would measure 6.2m by 6.2m. Whilst the garage spaces would not meet the required size standards, bearing in mind that there would be some space in front of the garages I am satisfied that they would be of adequate size to cater for average sized vehicles and storage. There would also be some limited parking availability along the new access road serving the development. As a result, I consider that there would not be a shortfall of parking provision within the site.
31. The SPD sets out that 2 cycle spaces should be provided for each dwelling with 3 bedrooms or more. For this development, that would equate to 12 cycle spaces. However, no cycle storage has been indicated on the submitted plans. Nevertheless, there would be sufficient space within the large curtilages of the dwellings, including within the garages, to provide adequate cycle storage. The details of such provision could be dealt with by condition.
32. On this issue I conclude that the proposal would make adequate provision for parking spaces and cycle storage. It would not be contrary to Policy CSP12 of

the Core Strategy, Policies DP5 and DP7 of the Local Plan and the SPD, which require, amongst other things, new development to make adequate provision for parking and cycle storage in the interests of amenity and highway safety.

Other considerations

33. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
34. The development would offer social and economic benefits in terms of providing new dwellings to the Council's housing stock which weighs positively in favour of the proposal. The appellant asserts that the Council cannot demonstrate a five-year housing land supply. The Council has not disputed this. In such circumstances, the Framework is clear that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. Land designated as Green Belt is included within the list of policies that protect areas or assets of particular importance and which provide a clear reason for refusing the development. I have found that the proposal would be inappropriate development and as part of that consideration, have a greater impact on the openness of the Green Belt than the existing development. There is therefore a clear reason for refusing the development. The harm that would be caused to the Green Belt means that the presumption in favour of sustainable development is not engaged.
35. The development would also result in the creation of employment opportunities during the construction phase and spending in the local area by future residents. Given the scale of the development, the weight attributable to these matters is limited.
36. There is no substantive evidence to show that large numbers of heavy goods vehicles currently visit the site or that the proposal would result in fewer vehicles visiting the site. The proposal would remove commercial uses which may be capable of generating noise and disturbance to neighbouring occupiers. However, no evidence has been provided to indicate that the existing business uses have previously caused issues in this respect. I therefore give limited weight to these matters.
37. A number of comments have been made by interested parties, which include concerns about highway safety and the effect on neighbouring occupiers' living conditions. The Council have not raised objections to the proposal on these grounds and I have no reason to disagree with this assessment based on the evidence before me and my observations on site.

Conclusion

38. In conclusion, I consider that the proposal would be acceptable in regard to its impact on ecology, including protected species, and parking provision and cycle storage. The absence of harm in relation to these matters is effectively neutral rather than weighing positively in favour of the proposal. On the other hand, I have found that the proposal would be inappropriate development in the Green Belt and as part of that consideration, have a greater impact on the openness

of the Green Belt than the existing development. It would also harm the character and appearance of the area and would have an unacceptable effect on the supply of employment land in the District. It has not been demonstrated that the proposal would not result in an unacceptable impact on land contamination and groundwater contamination. I give substantial weight to these harms. I have given only limited weight to the other considerations in favour of the proposal, and conclude that, taken together, they do not clearly outweigh the harm that the proposal would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.

39. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

M Offerenshaw

INSPECTOR