



Appeal Decisions

Site visit made on 14 June 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/H2265/W/22/3290954

Westlands Farm Borough Green Road, Wrotham, Sevenoaks TN15 7RB

- 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 Adam Massingham against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/02929/FL, dated 28 October 2021, was refused by notice dated 22 December 2021.
 - The development proposed is the demolition of existing buildings and erection of a new dwelling and garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal is accompanied by APP/H2265/W/22/3290956. Both relate to the replacement of agricultural buildings with a single dwelling. Whilst there are similar issues with each, there are also distinct ones and for the sake of clarity, I have dealt with them separately.
3. The Council's appeal statement correctly references both appeals but it relates to a single appeal which does not match the description of development or the circumstances of the cases before me. The appellant has referred to this apparent error in their final comments. As the Council's appeal statement provides no evidence to support the case in relation to either appeals, I have relied on the delegated report. I am satisfied that it contains sufficient information on the Council's position. The appellant has made comment on it.

Main Issues

4. The main issues are:
 - Whether the appeal scheme would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the openness of the Green Belt, and;
 - If the proposed development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Background

5. Both appeals relate to an area of land, currently occupied by a yard of agricultural buildings. They are associated with a farmhouse to the north which is outside both appeal sites. The sites are accessed via a long track from Borough Green Road, and stand in an isolated, predominantly open location with a strong rural character. The farm buildings which are the subject of the two appeals lie to the eastern side of the access track with no significant boundaries separating them from the surrounding field.
6. This appeal relates to the northernmost structure within the farmstead group and is an L-shaped single storey agricultural building range, constructed from a variety of materials with pitched roofs. The accompanying appeal relates to the agricultural buildings within the farmstead group as a whole, excluding the agricultural buildings and land forming part of this appeal.
7. In 2020 planning permission was granted for the conversion of this appeal building to a single dwelling with a detached garage (Ref.TM/20/02378/FL). This has not yet been implemented. This appeal proposal seeks planning permission to demolish this structure and replace it with a dwelling and garage, largely designed to reflect the extant consent for conversion, although the proposed garage is to be relocated from the southern to the northern side of the dwelling.

Whether Inappropriate Development

8. Policy CP3 of the 2007 Tonbridge and Malling Core Strategy (CS) states that National Green Belt Policy will be applied to development in this part of the Borough. This is currently set out in the National Planning Policy Framework (the Framework). The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt. Paragraph 149 of the Framework regards the construction of new buildings as inappropriate development, subject to a number of exceptions.
9. With regard to such and the arguments of the case before me, the appeal relates to buildings which were last in agricultural use. Annex 2: Glossary of the Framework defines Previously Developed Land and states that land that is or was last occupied by agricultural buildings is specifically excluded from this definition. The appeal proposal would not fall into any of the exceptions set out in paragraph 149 and 150 of the Framework. It would therefore be inappropriate development in the Green Belt which is by definition harmful. It would therefore conflict with CS Policy CP3 and the Framework.

Openness

10. Openness is an essential characteristic of the Green Belt and has a spatial as well as a visual aspect. The appeal scheme would result in the demolition of an L-shaped range of single storey buildings but replace them with buildings of similar appearance. Spatially, the appeal scheme will have slightly less footprint and volume. However, account must be taken of the visual impact of the proposed residential curtilage and the associated trappings of domestic life

which may accommodate garden structures, level changes, boundary treatments and other paraphernalia, all of which would add up to affect openness. I must also take account of the proposed new garage. Overall, therefore, taking account of the slight reduction in the size of the proposed dwelling but the increased visual impact of the proposed residential curtilage and garage, the appeal proposal would have a broadly neutral effect on the openness of the Green Belt.

Other Considerations

11. National policy is unashamedly clear that the replacement of agricultural buildings with residential dwellings would be inappropriate development in the Green Belt, which would be harmful by definition and must be afforded substantial weight. Very special circumstances will not exist unless the harm resulting from inappropriate development and loss of openness is clearly outweighed by other considerations.
12. The fact that the Council found no other harm beyond finding inappropriate development cannot be regarded as a benefit, rather it is a neutral factor not weighing for or against the proposal.
13. I have already considered the reduction in built form as part of my assessment of openness and concluded that the appeal proposal would have a broadly neutral effect thereon. Again, this is a neutral factor not weighing for or against the proposal. The limiting of built form would also be a neutral factor in relation to the purposes of the Green Belt.
14. I have had regard to the extant planning permission for conversion which is regarded by the appellant as a potential fallback scheme commanding substantial weight. The design and form of this appeal proposal would largely reflect this extant permission and result in slight reduction in built form. The extant permission also allowed for the construction of a similar sized garage. At the time the Council considered that the conversion and creation of a modest curtilage would preserve the openness of the Green Belt. However, the red edge of the site of the permitted scheme also included the adjacent appeal site and the approved plans indicate the demolition of the remaining agricultural buildings. Therefore, even taking into account the larger domestic curtilage relating to the extant planning permission, it is highly probable that most other agricultural buildings would be demolished resulting in a significantly lesser effect on openness than the appeal proposal before me, despite the slight reduction in the size of the appeal proposal dwelling.
15. I recognise that there is some doubt as to whether the extant permission is a realistic fallback as the appellant states that due to the excessive amount of building works required the scheme would be marginal in viability terms. However, whilst I acknowledge that it may be more cost effective to demolish the building and rebuild it, I have not discounted it as there is a chance of it being implemented.
16. It is also stated that rebuilding would allow maximum energy efficiency measures and achieve a better development, but I have no evidence of this or evidence to explain why a similar level of energy efficiency couldn't be achieved with the conversion.

17. Furthermore, the appeal scheme would still be inappropriate development by definition, whilst the consented scheme of conversion is not. I do not therefore, consider that the potential fallback scheme weighs in favour of the appeal scheme.
18. The appellant has drawn my attention to a planning permission within the District Council's area relating to a residential conversion originally permitted under Class Q of the Town and Country Planning (General Permitted Development Order) 2015 which subsequently received planning permission for demolition of the existing building and replacement with a new dwelling of a largely identical size, design and form. It should be noted, however, that this scheme allowed for the demolition of a large adjoining former agricultural building and in the scheme before me there is no such significant demolition to affect openness to the same extent.
19. To conclude, the harm by reason of inappropriateness, and any other harm, would not be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Conclusion

20. The appellant has raised the matter of the Council's lack of a five-year supply of housing land and that policies most important for determining the application are out-of-date. However, as the appeal scheme is regarded as inappropriate development in the Green Belt it would conflict with Green Belt policy. The Framework provides a clear reason for refusing the development proposed in this regard, as per paragraph 11 d) i) and it is therefore not necessary to undertake further analysis.
21. In summary, the appeal proposal would be inappropriate development in the terms set out by CS Policy CP3 and the Framework. Although I have found that there would be a broadly neutral effect on openness of the Green Belt, the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any Green Belt harm.
22. For the reasons set out above, and considering all other matters raised, the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Consequently, the appeal should therefore be dismissed.

G Bayliss

INSPECTOR