



Appeal Decision

Site visit made on 27 July 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2022

Appeal Ref: APP/P1940/W/21/3283644

Land adjacent to Bay Tree Farm, Bucks Hill, Sarratt WD4 9AU

- 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 Rivergate Homes Ltd against the decision of Three Rivers District Council.
 - The application Ref 21/0841/FUL, dated 31 March 2021, was refused by notice dated 18 June 2021.
 - The development proposed is the demolition of existing residential annexe and associated stables and equestrian buildings and the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues relevant to this appeal are:
 - whether the proposed development is inappropriate in the Green Belt and the effect of the development on the openness of the Green Belt;
 - the effect of the development upon the setting of the nearby listed building;
 - whether a financial contribution towards the provision of affordable housing is required; and
 - if the development is inappropriate, 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 the previous development is inappropriate in the Green Belt and the effects on the openness

3. The appeal site is located in the Green Belt. The National Planning Policy Framework (the Framework) regards the erection of new buildings in the Green Belt as generally being inappropriate. There are some exceptions to this which are listed in Paragraph 149 of the Framework.
4. It has been suggested that the partial or complete redevelopment of previously developed land may potentially be regarded as not being inappropriate.

5. The appeal site is currently in use for equine activities and a residential annexe. The Framework defines previously developed land as being land which is, or was, occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. Although the Framework is explicit in that agricultural land is excluded from the definition of previously developed land, the appeal site is not in use for this purpose.
6. The buildings that are on the site are of a permanent construction. These buildings are to be removed and replaced by the proposed development. Therefore, the proposed development could be accurately described as the reuse of previously developed land.
7. However, for the development to not be inappropriate in the Green Belt, the new development should not have a greater impact on the openness of the Green Belt than the existing development.
8. The proposed development would lead to an increase in the overall level of built form. This would arise from the greater height of the proposed development when compared to the existing building. In addition, there would be an overall increase in the footprint of the building. This would occur irrespective of the scale of the existing annexe.
9. By reason of the increase in built form, the proposed development would result in an erosion of the overall spatial sense of openness that is a feature of the Green Belt. In reaching this view, I have had regard to the fact that, in some parts, the building would be reduced in height. However, this would be offset by an increase in built form elsewhere.
10. In addition, although some of the existing buildings would be removed, they would be replaced by other structures elsewhere. These would be condensed into a single location. This means that at the point where the proposed dwelling would be constructed, there would be an increased amount in built form. These factors would contribute to an erosion of the spatial sense of openness.
11. The proposed development would increase the height of the building. This would result in a greater scale and massing of the building. This increase would be readily viewable from the surrounding area. Such points would include the site's entrance, which is near to the junction with Quickmoor Lane. In addition, there would be some glimpsed views through the site's boundary treatments. Although other views might exist, these would be the most prominent views and therefore harm would emanate.
12. Furthermore, the proposed development would be viewable from the neighbouring residential properties. This means that the proposed development, and the resultant increase in built form, would be potentially experienced by a notable number of people. In result, the increase in built form would be prominent.
13. The proposed development would be used as a domestic dwelling. In result, the occupiers of the proposed development may place within the curtilage items of domestic paraphernalia. Such items may fall outside of the definition of development. This could not be restricted by condition. This means that the development is likely to result in a more domestic and less open character than is currently the case.

14. Although the existing development features an annexe, it is of a smaller scale than the proposed development. Therefore, the proposed development would mean that the placing of domestic paraphernalia is likely to occur on a more frequent basis than the existing development.
15. The proposed development includes the provision of additional landscaping. Whilst this would provide some screening, the overall effect of this would vary depending on health and, potentially, season. In addition, it is likely to take some time to become established. Therefore, this would not fully address my concerns and, in any event, would not mitigate the adverse effect upon the spatial sense of openness.
16. In reaching this view I have had regard to the fact that the Framework specifies that one of the purposes of including land within the Green Belt in order to prevent an increased urbanisation of the countryside. Due to the preceding factors, this objective would not be achieved.
17. I therefore conclude that the proposed development would be inappropriate in the Green Belt and would have an adverse effect upon the openness of the Green Belt. The development, in this regard, would conflict with Policies CP11 of the Three Rivers Core Strategy (2011) (the Core Strategy); and Policy DM2 of the Development Management Policies Local Development Document (2013) (the LDD). Amongst other matters, these seek to ensure that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt; and are not harmful to the openness of the Green Belt by reason of its siting.

Effect on the setting of the Listed Building

18. The appeal site is near to a Grade II Listed Building, which was originally constructed as a farmhouse. For the purposes of this appeal, the significance of the building is a result of the traditional proportions of the farmhouse, and the complimentary style of architecture of nearby buildings. These nearby buildings maintain a subordinate arrangement to the farmhouse. In addition, the presence of open space is important in indicating the former use of the farmhouse. In consequence, the setting of the listed building contributes to its significance.
19. The proposed development would result in the introduction of a residential dwelling in proximity to the Listed Building. In consequence the proposed development would result in the erosion of the Listed Building's setting as it would represent an erosion of the traditional uses of the vicinity. The surroundings of the Listed Building would become more domestic in appearance.
20. In addition, the proposed development would feature a garden area to serve occupiers of the development. This would be supplemented by car parking areas. In consequence, the development would have a more domestic appearance than is currently the case. In consequence, the proposed development would erode the more functional appearance that is a feature of the appeal site.
21. However, the harm arising from this would be limited due to the proposed building being constructed from a style of architecture which, although different to that used in the nearby farmhouse, is complimentary towards it. In

consequence, the development would not result in a notable change in the Listed Building's surroundings.

22. Furthermore, the proposed development would replace several different existing buildings. These are constructed to a variety of materials palettes. This includes the annexe, which is constructed from materials that differ from those utilised on the Listed Building or the other existing outbuildings. In result, the removal of these buildings would lessen the effect on the setting of the Listed Building.
23. In addition, the proposed development would also feature a palette of materials that are complimentary towards the rural setting of the development. Had I been minded to allow this appeal, I could have imposed a condition that would have enabled the Council to approve the materials from which the building would be constructed from.
24. The proposed development has been designed in such a way so that the taller elements of the dwelling are located a significant distance away from the farmhouse. This means that the subordinate arrangement between the appeal site and the farmhouse will be retained.
25. The proposed development would retain a gap between the Listed Building and the development. Whilst these factors, when combined, would reduced the harm arising from the proposed development, they would not mitigate it.
26. I therefore conclude that the proposed development would have an adverse effect upon the setting of the Listed Building, albeit this would amount to less than substantial harm. The development would therefore conflict with Policies CP1 and CP12 of the Core Strategy; and Policies DM1 and DM3 of the LDD. Amongst other matters, these seek to ensure that buildings are of high design quality; conserve and enhance heritage assets; do not lead to a deterioration in the built environment; and conserve or enhance the surrounding historic environment.

Affordable housing

27. The proposed development is for a single additional dwelling. In considering this appeal I have been directed towards Policy CP4 of the Core Strategy. Amongst other matters this requires that when implementing a new development, a financial contribution for the provision of off-site affordable housing is made.
28. I am aware that the Framework is clear that in most instances, such contributions for smaller developments are generally considered unreasonable. This is a matter to which I attribute great weight. Nonetheless, I am also conscious that, within the locality of the appeal site, there is a significant need for affordable housing.
29. In result, I am conscious that the proposed development, if there were not such a payment towards the provision of offsite affordable housing, this shortfall would be exacerbated. Therefore, in light of the prevailing local circumstances, I am satisfied that there is sufficient justification within this specific instance for such a contribution to be justified.
30. As mentioned, I have been directed towards Policy CP4. In assessing the affordable housing requirement of the development, this policy is clear that a

decision on the level of such a financial contribution would be made on a case-by-case basis. In addition, such a contribution will also take into account financial viability and the circumstances of the site.

31. The developer has prepared a viability appraisal. This confirms that if such a financial contribution were to be made, it would render the scheme unviable. Amongst other matters, this details that owing to the scale of the development, the funding could not be achieved utilising the loan to value suggested by the Council. In result, such borrowing costs are likely to be higher than suggested by the Council. In addition, the existing site has a limited array of activities which it could be used for. This reduces the value of the existing site.
32. In addition, I am conscious that, because of recent events, the costs of building materials are likely to have increased. This is also problematic as the developer has demonstrated that the likely returns from the development are lower than that indicated by the Council.
33. In particular, the Council have highlighted several properties that have been sold. However, some of these dwellings are notably smaller than the appeal proposal. In result, these are likely to deliver a different level of return. This means that excluding these, the level of return is likely to be lower than that indicated by the Council.
34. Therefore, should the development make a financial contribution that would be required by Policy, the level of profit would fall beyond that which would normally be expected. In consequence the likelihood is that the development would not proceed.
35. This a concern as given the general need for housing within the vicinity, the non-delivery of a dwelling available for occupation of market tenures would not be desirable.
36. I therefore conclude that the proposed development should not provide a financial contribution for the provision of offsite affordable housing. The development, in this regard, would comply with Core Strategy Policy CP4 and the Affordable Housing Supplementary Planning Document (2011). Amongst other matters, these seek to ensure that developments provide new affordable housing taking into account site circumstances and financial viability; and consider the viability implications of affordable housing provision.

Other considerations

37. The evidence before me indicates that the Council cannot currently demonstrate a five-year housing land supply. However, I am mindful that Footnote 7 of the Framework is clear that the provisions of Paragraph 11(d) (often referred to as the 'tilted balance') do not apply in instances where the application of policies in the Framework that protect areas provides a clear reason for refusing the development proposed. This applies in this instance given that harm to the Green Belt would emanate.
38. Nonetheless, I am mindful that the proposed development would result in an increase in the local housing supply. However, given that the appeal proposal is for a single dwelling only, it would not result in a notable increase in the overall level of housing supply within the vicinity. In consequence, I give this matter a moderate amount of weight.

39. The development would generate some economic benefits. However, those that would arise from the construction process would be of a time-limited duration. In result, this can be attributed a limited amount of weight.
40. The occupiers of the development would support business and other facilities in the wider area. However, given the scale of the development any such support can be attributed a limited amount of weight.

Green Belt Planning Balance

41. The development plan and the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
42. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. In so doing I have found harm to the openness of the Green Belt. Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt.
43. The other considerations I have identified individually and collectively carry a limited weight in favour of the proposal. As such the harm to the Green Belt is not clearly outweighed by the other considerations identified, and therefore the very special circumstances necessary to justify the development do not exist.

Heritage Planning Balance

44. The harm that would occur to the setting of the listed buildings would not be severe and therefore it would be 'less than substantial' within the meaning of the National Planning Policy Framework (the Framework). Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal.
45. The proposal would result in an increase in the overall level of housing supply within a rural area. This is particularly notable given that the Council cannot currently demonstrate a five-year housing land supply. Therefore, the proposed development would offer some benefits in this regard, to which I attribute a moderate amount of weight.
46. The proposed development would generate some economic benefits arising from the works being undertaken and future occupation. However, these benefits would be limited due to the scale of the development and also, in some instances, of a time-limited duration. Therefore, I can only attribute the public benefits a limited amount of weight.
47. Therefore, when giving significant importance and weight to the special attention I must pay to the desirability of preserving or enhancing the listed buildings, I find that the harm that would arise from the proposal would be outweighed by its public benefits. Accordingly, there would not be a conflict with Paragraph 200 of the Framework as harm to designated heritage assets would have clear and convincing justification.

Conclusion

48. The proposed development would be inappropriate in the Green Belt and have an adverse effect upon the openness of the Green Belt. This would outweigh other considerations in favour of the proposal. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR