



Appeal Decision

Site visit made on 14 July 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2022

Appeal Ref: APP/P1940/W/21/3284630

Land known as The Puffing Field adjoining Brackenhurst, Windmill Hill, Chipperfield WD4 9DG

- 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 T Weldon against the decision of Three Rivers District Council.
 - The application Ref 21/0282/FUL, dated 9 February 2021, was refused by notice dated 14 April 2021.
 - The development proposed is for the erection of a self-build dwelling and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Although the application proposes the erection of a self-build dwelling and it has been processed by the Council on that basis, I have not been provided with any mechanism to ensure that the proposed dwelling would be constructed and occupied as a self-build dwelling. As such, I have determined the appeal on that basis.

Main Issues

3. The main issues are:
 1. Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies.
 2. The effect on the openness and purposes of the Green Belt.
 3. Whether or not the proposal necessitates a requirement for affordable housing, and if so, whether the proposal makes appropriate provision for this.
 4. Whether any 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

Inappropriate development

4. The appeal site comprises part of a larger plot of land which is located within the Metropolitan Green Belt.

5. Policy CP11 of the Core Strategy, adopted October 2011 ('CS') sets out that there is a presumption against inappropriate development, that fails to preserve openness of the Green Belt. Policy DM2 of the Development Management Policies Local Development Document, adopted July 2013 ('LDD') relates to development in the Green Belt and relies on national policy in terms of determining if a development is inappropriate or not.
6. Paragraph 149 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include: e) limited infilling in villages.
7. Accordingly, this requires a planning judgement as to whether (1) the appeal site is within a village, and (2), if so, whether the proposal represents limited infilling.
8. The appellant asserts that the appeal site and all other properties on the south side of Windmill Hill, are part of the built-up area of Chipperfield, which is a village providing services and amenities commensurate with its size. In support of this, I have been referred to the Council's assessment of an application and the particulars produced by estate agents for properties near the appeal site, where those properties have been identified as being located within Chipperfield. However, the former is derived from an address for postal reasons and the estate agent's literature is primarily intended for marketing purposes.
9. I have also noted the sign welcoming visitors to Chipperfield. However, there may be varying reasons for siting this in a particular location, including in the interests of highway safety.
10. On the other hand, the appeal site lies outside the settlement boundary of Chipperfield in the development plan for Dacorum Borough Council and does not lie within any of the settlement boundaries, as defined by the development plan for Three Rivers District Council. However, these and the above factors along with references made in the Council's officer report and by the Parish Council about the location of the appeal site are not necessarily determinative, as to whether a particular site is within a village for the purposes of paragraph 149 e) of the Framework.
11. Rather, based on the caselaw referred to me, it is for the decision maker to decide whether, as a matter of fact and degree on the ground, the site is in a village.
12. Based on my visit and observations, the built extent of Chipperfield is located north of Chipperfield Common. This includes dwellings and associated services and facilities which are generally arranged adjacent to highways.
13. In contrast, the appeal site and dwellings east and west of this lie south of Chipperfield Common and although accessed via Windmill Hill, are significantly set back from this behind an area of dense tree coverage separating the appeal site from the highway. This creates a clear and substantial break from development to the north. Furthermore, the appeal site and dwellings nearby are accessed via tracks and are located within a distinct woodland setting.
14. The appeal site is within walking distance of some services and facilities within Chipperfield and others would be accessible by cycling. Nevertheless, the accessibility to services and facilities does not necessarily determine that the appeal site is part of the village of Chipperfield for the purposes of paragraph

- 149 e) of the Framework. In reaching my view, I have had regard to the Prestbury appeal decision. However, accessibility was only one of a number of reasons that led the Inspector in that case to conclude that the site was within a village.
15. The appellant argues that the purpose of the reference to 'infilling within a village' is to prevent isolated development in unsustainable rural locations. Mindful that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, I see nothing in national guidance that makes me find that to be the underlying justification behind paragraph 149 e) of the Framework or the purpose that inform its interpretation.
 16. Drawing on the above reasons, the appeal site is spatially and visually separate from the built-up parts of Chipperfield. Therefore, in my judgement, the appeal site is not located within the village of Chipperfield.
 17. The settlement known as Belsize lies to the south of Chipperfield and north of Sarratt. The main parties dispute whether Belsize is a village or a hamlet. This has consequences in terms of whether the scheme accords with paragraph 149 e) of the Framework.
 18. I appreciate these are subjective terms and no definition is provided in the Framework or the Development Plan. In particular, there is no planning specific classification for the definition of a village. Also, there is no set list of features/characteristics that a settlement must have in order to be a village. Whilst I have been referred to various definitions, in light of the caselaw (referred to me) whether or not a settlement is a village is a matter of planning judgement.
 19. On the ground, Belsize is an appreciably smaller settlement in terms of the area it covers, numbers of dwellings, relative to the nearby villages of Chipperfield and Sarratt, and incorporates very limited services and facilities. Therefore, its modest scale and services and facilities, lead me to conclude that Belsize is not a village.
 20. Moreover, the built extent and form of Belsize is mainly defined by ribbon development adjacent to parts of Dunny Lane and roads leading off this, which lie between Chipperfield Common and Bragmans Lane. Most notably, the land to the south of the appeal site forms a buffer to part of the built extent of Belsize along Little Windmill Hill. This also separates the appeal site from the built-up form of Belsize and reinforces the site's woodland setting. Consequently, even if I found it to be a village, I do not consider the site to be located within Belsize.
 21. By drawing comparisons between Belsize and Tramwell Woods, which was identified as a village in the Tate judgement, the appellant argues that it is reasonable to conclude that Belsize is also a village. However, I have insufficient information in respect of Tramwell Woods to draw any meaningful conclusions.
 22. I have also had regard to judgements in respect of *Bramshill v SSHCLG* [2021] EWCA Civ 320 and the *Braintree Case* (*Braintree District Council v Secretary of State for Communities and Local Government* [2018] EWCA Civ 610). The appeal site is near to other dwellings, and because it would be accessible to facilities in Belsize and Chipperfield it would not be isolated from these

settlements. In any event, for the reasons already given, the appeal site is not located in a settlement, in particular, a village for the purposes of paragraph 149 e) of the Framework.

23. Given that I have found that the appeal site is not within a village, even if I were to accept the appellant's assertion that the proposal is limited infilling, the proposal would not meet the exception under paragraph 149 e) of the Framework.
24. From the evidence before me, I have no reason to conclude that the proposed development would meet any of the other exceptions set out in the Framework and therefore the proposal would amount to inappropriate development in the Green Belt.

Openness and purposes of Green Belt

25. Paragraph 137 of the Framework, states that the essential characteristics of Green Belts are their openness and their permanence. The extent to which a proposal may cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and/or visual implications.
26. Whilst the appeal site may be Previously Developed Land, save for accommodating a small number of modest storage containers, it is free of any significant development and despite some boundary landscaping retains a degree of openness.
27. The proposal would introduce a sizeable dwelling with a detached garage which in terms of their footprint, height and associated massing and bulk would appreciably reduce the spatial and visual openness of the site.
28. For the above reasons, the proposal would result in harm to the openness of the Green Belt.
29. There are dwellings near the appeal site and the model railway, which is limited in scale and largely contained on land to the south of the appeal site. Nonetheless, as already stated the appeal site maintains a sense of openness. This, along with the fields to the south and woodland to the north contribute to the countryside character of this location. Therefore, due to the extent of its overall footprint and scale, the proposal would conflict with one of the purposes of the Green Belt which is to assist in safeguarding the countryside from encroachment.

Provision for affordable housing

30. CS Policy CP4 seeks 45% of all new housing to be affordable. For small sites of between one and nine dwellings the policy indicates commuted payments towards provision off site, as an alternative to on-site provision, can be made.
31. Nevertheless, the Framework indicates that the provision of affordable housing should not be sought for residential developments of less than 10 dwellings, other than in designated rural areas, where policies may set out a lower threshold of 5 units or fewer.
32. The Council's evidence sets out a robust case for an acute need for affordable housing in the area and the importance of small sites in contributing to the

provision of such housing. On the evidence before me, I have no substantive reason to disagree with this position.

33. In accordance with CS Policy CP4, the development would be liable for a commuted sum towards the provision of affordable housing. The provided formula gives rise to a contribution of £230,850 for a development of this type and in the proposed location. However, this Policy also states that a smaller contribution (or none at all) is acceptable where it can be robustly justified by means of a viability appraisal.
34. The appellant's viability assessment results in a scheme deficit, when measured against the Benchmark Land Value. On this basis the appellant concludes that the proposed scheme cannot reasonably be required to provide any off-site affordable housing contribution.
35. The Council's appraisal of the appellant's viability identifies a surplus. Accordingly, the Council argue that while the scheme is not able to support the full off-site affordable housing payment, it could support a reduced contribution of £167,629 and remain viable.
36. The principal areas of divergence on viability matters between the main parties are Build Cost and Profit.
37. Build Cost – The main parties have referred me to the RICS professional guidance, which references the relevant provisions of the Planning Practice Guidance (PPG). The PPG, amongst other things suggests that build costs should be based on appropriate data, for example that of the Building Cost Information Service (BCIS).
38. The RICS guidance advises that assumptions on costs could include, site specific build cost in the form a full quantity surveyor's cost. As to which approach is favoured and utilised is a matter of professional judgement. Nevertheless, a cost plan should be realistic and not beyond scrutiny.
39. The viability appraisal on behalf of the Council relies on information from the BCIS database. The Council argue that the use of BCIS ('One-off' housing detached - 3 units or less) is the correct category to use and that the correct build cost rate is the median rate for 3-storey development. The overall build cost rate (including externals equates to £3,300 per m². This includes an additional allowance of £20,000 for the double garage and £25,000 for non-recoverable VAT.
40. The appellant has provided an updated cost plan of the specific development under consideration compiled by a quantity surveyor. The build cost rate per m². in the appellant's cost plan is broadly consistent with the upper quartile level of the range published by BCIS. This is not unrealistic given that the proposed dwelling would be of a bespoke design and is located in an area where dwellings are generally of a high specification. Also, part of the proposed development would be below ground. Together, these factors are likely to generate additional costs. As such, I have no substantive reasons to dispute the appellant's build cost.
41. Profit - By definition, self-builders do not sell the completed home and, hence, do not realise a profit. To this end, the main matters of dispute in relation to 'Profit' are whether or not a self-build dwelling should realise a profit and if so what percentage of Gross Development Value (GDV) this should be calculated

at. Because there is no mechanism to ensure that the proposal would be implemented as a self-build, it is not necessary for me to challenge the appellants allowance for a profit on 20% of GDV.

42. In light of the above reasons, the proposed scheme would be liable for a contribution towards affordable housing. However, the appellant's viability evidence provides justification that the proposal would not be viable if a contribution for affordable housing is sought. Consequently, the proposal does not conflict with Policy CP4 of the CS.

Other Considerations

43. Paragraph 147 of 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.
44. Based on the appellant's submissions, the Council can only show 2 years supply of deliverable housing. This has not been disputed by the Council. Consequently, the Council cannot demonstrate a five-year supply of deliverable housing and has a significant unmet housing need.
45. As previously stated, the proposal is intended to be a self-build dwelling. The appellant is also on the Council's self-build register. There is considerable disagreement between the main parties over the level of self-build housing delivered by the Council. In particular, the appellant asserts that there is a chronic shortfall in the provision of self-build plots in the District, and as such the provision of a self-build dwelling is a significant material consideration weighing in favour of the proposal.
46. Even if I were to align with the appellant's position on this matter because there is no effective mechanism before me to ensure that the proposal would be occupied as a self-build dwelling, I am unable to attach any significant weight to the benefit of intending to provide a self-build dwelling.
47. Nevertheless, the proposal would deliver a new dwelling. This would make an important but modest contribution towards the local housing need and aligns with the objective of significantly boosting the supply of homes, as set out in the Framework. The proposal would create employment during the build phase. Thereafter, new residents would enhance or maintain the vitality of rural communities, in accordance with Paragraph 79 of the Framework. These are important factors and social and economic benefits that are of significant weight in favour of the proposal.
48. Where practicable, the appellant is proposing new planting within the appeal site. A number of bat boxes will be incorporated which will provide new roosting opportunities. Bird boxes are also proposed to be incorporated, to increase nesting opportunities for birds at the site. The appellant also suggest that habitat piles and bee bricks could also be incorporated into the proposal. These measures would provide biodiversity gains.
49. The appellant also intends for the proposal to be of a sustainable design and incorporate a range of renewable technologies. These would deliver some environmental benefits.
50. However, the social, economic and environmental benefits arising from a single dwelling would still be modest and therefore only attract limited weight.

51. The appellant also asserts that the proposal has been sensitively designed. Given that the Development Plan and the Framework seek to secure high-quality design in developments, this would be a requirement of any new development here. Therefore, I attach limited weight to this.

Other Matters

52. The main parties and others have referred me to numerous appeal decisions, which I have considered. In the main these are to highlight how other Inspectors have interpreted whether or not a settlement is a village and whether or not a particular site falls within a village and what does or does not constitute 'limited infill'. Nevertheless, as I have already outlined, decisions on these matters are primarily a matter of planning judgement.
53. Furthermore, those appeal decisions do not provide an exact comparison to another situation. For example, there are differences in the size and scale of proposals, planning policy and housing supply considerations, locational characteristics, main issues and other factors which have been weighed in the balance.
54. Also, each appeal is considered on its own merits as is the case here. It is for the decision maker in each case to undertake the planning balancing exercise. Overall, I see nothing in these other decisions that leads me to a different view.
55. I have determined this appeal on the basis of the specific proposal and evidence before me, and my observations. Therefore, the weight I attribute to the appellant's preapplication discussion is limited.
56. Third parties have raised a number of other matters. However, as I am dismissing the appeal for other reasons, I have taken no further action on these matters.

Planning Balance and Conclusion

57. I have found that based on the submitted evidence, the proposed scheme cannot support a financial contribution towards affordable housing. However, for the reasons already given, there would be no conflict with the Development Plan.
58. Nevertheless, the proposal amounts to inappropriate development in the Green Belt, which would by definition be harmful to it. It would also cause harm to the openness of the Green Belt, and conflicts with one of the purposes of the Green Belt.
59. The Framework is clear that substantial weight should be given to any harm to the Green Belt and 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.
60. Whilst I have given weight to the factors cited in the schemes favour, even when taking these matters cumulatively, they do not clearly outweigh the totality of harm the scheme would cause. Consequently, the very special circumstances to justify the inappropriate development do not exist.
61. The Council can only show 2 years supply of deliverable housing. The presumption in favour of sustainable development as set out in paragraph 11

d) of the Framework is therefore engaged. Nevertheless, in accordance with paragraph 11 d) i), as the proposal would be contrary to Green Belt policies in the Framework which provides a clear reason for refusing the development despite the deficiency in the housing land supply.

62. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found the proposal is contrary to the aims of Policy CP11 of the CS and Policy DM2 of the LDD and the Green Belt provisions of the Framework. Consequently, the proposal conflicts with the development plan and the Framework.

63. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR