The Planning Inspectorate

Appeal Decision

Site visit made on 7 September 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2022

Appeal Ref: APP/M3645/W/22/3292912
Blackberry Cottage, Blackberry Road, Felcourt RH19 2LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Iain Brightwell against the decision of Tandridge District Council.
- The application Ref TA/2021/1789, dated 6 October 2021, was refused by notice dated 27 January 2022.
- The development proposed is described on the application form as 'repositioning existing separate dwelling house and removal of existing concrete structure outbuildings'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline, with details of access, layout and scale to be assessed now. In other respects, I have treated the accompanying plans as illustrative.

Main Issues

3. The main issues are:

   - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
   - if the development is inappropriate development, the effect of the proposed development on the openness of the Green Belt;
   - the effect of the proposed development on the living conditions of future occupiers; and
   - 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 justly the proposal.

Reasons

Whether inappropriate development and openness

4. The appeal site comprises a parcel of garden land positioned to the south of Blackberry Road. It includes on it an existing driveway, dwelling, workshop, garage and car port. The site is within the Green Belt.

5. The proposed development would consist of the construction of a two-storey dwelling with pitched roof, accommodating three bedrooms, together with the removal of the existing dwelling and associated outbuildings.

6. Policies DP10 and DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (2014) (LP) in summary, and amongst other things, support the replacement of buildings within the Green Belt (outside defined villages) where the proposed new building is in the same use as the building it is replacing, is not materially larger than the building it is replacing; and is sited on or close to the position of the building it is replacing, except where an alternative siting within the curtilage demonstrably improves the openness of the Green Belt. This is broadly consistent with paragraph 147 of the Framework, which sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved 'except in very special circumstances'. In a similar manner to the LP policies referenced above, one exception to that position is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

7. The replacement building would be in the same residential use as the existing property and would not be materially larger than it. In respect of the proposed position of the replacement dwelling, there is no definition within the LP as to what constitutes 'close to' the position of the existing building, although it is clear that the proposed building would not be in the same position. It would be set some distance away from the existing property, beyond the neighbouring Blackberry Cottage and car port, on an undeveloped garden area to the west.

8. I observed during my site visit that intervening features in the landscape, the topography and paucity of nearby vantage points mean there is fairly limited visibility of the site from the surrounding area. However, openness, a fundamental characteristic of the Green Belt, has both a spatial and visual dimension. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.

9. Blackberry Cottage and the dwelling proposed to be demolished currently sit together in such a way as to minimise the overall impact and 'sprawl' of development across the site. Whilst I accept that the proposed dwelling has been designed with sensitivity to prevailing built forms, it would nevertheless result in built development in a part of the site where there is presently none.

10. The footprint of the proposed dwelling and its bulk, albeit smaller than the existing dwelling, would inevitably lead to a loss of openness, both physically and visually, in a more prominent part of the site. Moreover, there would, in all likelihood, be domestic paraphernalia and hard surfacing or boundary features which would add to the effect on openness beyond a simplistic reliance on the amount of ground covered. There is no substantive evidence before me to lead to me to conclude that the proposed dwelling, replacing an existing dwelling to an alternative siting within the same curtilage, would demonstrably improve the openness of the Green Belt.

11. For the foregoing reasons, as the proposed development would fail to preserve openness, it would be inappropriate development in the Green Belt, rather than an exception permissible under Framework paragraph 149. However, in the light of the mitigating factors explained above, adverse effects to openness would fairly be described as moderate. The proposed development would be

contrary to the relevant provisions of LP Policy DP13, which in summary seeks to support the replacement of buildings in the Green Belt where a number of circumstances are met, including that openness is improved where an alternative siting is proposed.

Living Conditions

12. The proposed dwelling would face north, as is the case with the established Blackberry Cottage. No windows are proposed in the east facing elevation.

13. Notwithstanding this, Blackberry Cottage features a first floor roof terrace which is visible from the site. Although this would allow some views towards the proposed dwelling, its orientation, the lack of windows proposed in the east elevation and the intervening mature landscaping would ensure that the dwelling would have good levels of privacy both within it and to its amenity space.

14. In conclusion, and based on the evidence before me, the proposed development would benefit from acceptable living conditions, with particular regard to privacy, in accordance with the relevant provisions of Policy CSP18 of the Tandridge District Core Strategy (2008) and LP Policy DP7. These policies, in summary, seek to protect living conditions.

Other Considerations

15. The proposed development would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.

16. I have carefully considered the appellant's comments made in respect of discussions with the Council, the improvements to amenity between the existing properties, including the provision of larger private amenity space, improved outlook and greater separation distances and the reduction in density. I have also noted the alleged lack of harm to the living conditions of neighbouring occupiers, the lack of alteration of Green Belt boundaries, the potential to provide additional habitat and environmental improvements and the proposed development's accordance with various other policy objectives, including traffic-related matters. Nevertheless, none of these matters, including their benefits, individually or cumulatively, outweigh the harm that I have identified and the conflict with the development plan. They would essentially be neutral in my assessment of the appeal. I therefore give them limited weight.

17. Tandridge District Council cannot presently demonstrate a five-year land supply of deliverable housing sites. This means that the policies which are most important for determining the proposal are out of date in accordance with paragraph 11.d) of the Framework. However, bullet (i) of paragraph 11.d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development.

18. As I have explained, there would be harm to the Green Belt that would not be clearly outweighed by other considerations. This provides a clear reason for refusing the proposed development. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development in this instance. Moreover, the proposed development would not result in the

net gain of a dwelling but rather the replacement of an existing. Therefore, I give this matter minimal weight.

19. For the above reasons, the identified harm to the Green Belt in terms of inappropriateness and loss of openness would not be outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission do not exist. As such, the proposed development conflicts with LP Policy DP10 which sets out that inappropriate development in the Green Belt will only be permitted where special circumstances exist.

Conclusion

20. The proposed development conflicts with the development plan and the Framework taken as a whole. I therefore conclude that the appeal should be dismissed.

A. Price

INSPECTOR