



Appeal Decision

Site visit made on 25 October 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2022

Appeal Ref: APP/C3620/W/22/3296026

Oakstead, Mill Lane, Hookwood RH6 0HX

- 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 Mrs P Tarbin against the decision of Mole Valley District Council.
 - The application Ref MO/2021/1866/PLA, dated 3 October 2021, was refused by notice dated 7 February 2022.
 - The development proposed is the erection of a detached three bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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, including the effect on the openness of the Green Belt; and
 - if the proposed development is found to be inappropriate development, 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 proposed development.

Reasons

Whether inappropriate development, including effect on openness

3. The Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. There are, however, certain exceptions. One of those, at paragraph 149(g), is the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt.
4. Policies CS1 and CS2 of the Mole Valley Core Strategy (CS, 2009) refer to *Planning Policy Guidance 2 – Green Belts* (PPG2), directing new development away from the Green Belt. Whilst PPG2 has been superseded, and these policies pre-date the Framework, they broadly conform to the general thrust of national Green Belt policy. However, they do not consider previously developed land in out-of-settlement locations as an exception (unless relating to affordable housing). The policies also refer to specific locations for new residential development. Accordingly, in respect of their degree of consistency

with the Framework, I attribute only moderate weight to these policies and any conflict with them.

5. Given the nature of the site, specifically the permanence of the existing brick structure and former foundations, albeit the latter has blended somewhat into the landscape, I am of the view that it is previously developed land (PDL) in line with the definition in the Framework¹.
6. The terms 'limited' and 'infilling' are not defined within the Framework. However, CS Policy CS2 states that to meet this definition, a site needs to 'form a small gap in an otherwise continuous built-up frontage'. This is in a similar vein to the case law referenced by the appellant². Whilst this goes somewhat further than the text within the Framework, I do not consider the additional detail to be contrary to the general thrust of national policy. Instead, it acts to assist in the assessment of limited infilling, which is ultimately a question of fact and planning judgement for the decision maker.
7. As the proposed development would consist of a single dwelling of a reasonably modest scale, positioned largely to the front of the site, and would assimilate well with neighbouring properties in terms of its size and plot position, I consider that it could reasonably be described as limited. The proposed development would sit within an open gap, closely bounded by two established dwellings within an otherwise continuous built-up frontage. From that perspective, the proposed development could therefore be reasonably regarded as infilling.
8. Irrespective of the above, and noting the appellant's reference to case law³, in order to comply with paragraph 149(g), the proposed development should not have a greater impact on the openness of the Green Belt than the existing development. Openness is a fundamental characteristic of the Green Belt. It has a spatial as well as a visual aspect. 'Open' can mean the absence of development in spatial terms.
9. The appeal site comprises a parcel of land made up largely of grassland, trees and vegetation. A ruined brick structure exists to the west side of the site. This is set back from the road behind a mature hedgerow. This structure has a modest volume and limited visual impact. Open fields and areas of woodland exist opposite and behind the site. Taken together, the site retains an essentially open character.
10. Notwithstanding that the scale of the proposed development has been reduced compared to a previously refused scheme⁴, and has been designed with sensitivity to prevailing built forms and materials, it nonetheless introduces additional built development and massing to the site. This would be significantly larger compared to the existing building. The footprint of the proposed dwelling, its bulk and the accompanying domestic paraphernalia would all inevitably lead to a loss of openness, both spatially and visually. Given the location of the site adjacent to Mill Lane, and the siting of the dwelling along much of the width of the plot, the proposed development would appear readily visible when viewed from the roadside and adjoining properties. Consequently, the proposed development would have a greater effect on the

¹ Annex 2 of the Framework.

² Wood v Secretary of State for Communities and Local Government [2014] EWHC 683.

³ Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council [2018] EWCA Civ 489.

⁴ Ref MO/2020/0954.

openness of the Green Belt and would not conform to the requirements of exception 149(g) of the Framework.

11. I have also had regard to paragraph 149(e) of the Framework, including the appellant's case law reference⁵. This Framework exception relates to limited infilling in villages. Although there are several properties located near to the appeal site, and it is not isolated in the context of paragraph 80 of the Framework, the immediately surrounding area is of a semi-rural character. The surrounding open fields, hedgerows and overall number of properties contribute to this. Although a public house exists along Mill Lane, this is set away from the residential properties within a large plot. I am not convinced that this, nor the existence of bus stops, a post box or short stretch of pavement, indicates that the site is within a village.
12. The fact that there is some built form, and that this is distinguishable from the open fields that lie opposite and around the site, is not reason to conclude that it is in fact a village. Rather, it appears as a small grouping of properties within a semi-rural setting. For these reasons, I conclude that the appeal site is not in a village for the purposes of the Framework. Consequently, I find the proposed development would not meet the requirements of paragraph 149(e).
13. For the foregoing reasons, as the development would fail to preserve openness, it would be inappropriate development in the Green Belt, rather than an exception permissible under Framework paragraph 149. Inappropriate development in the Green Belt should not be approved except in very special circumstances and substantial weight should be given to that harm. It follows that the proposed development would be contrary to the relevant provisions of CS Policies CS1 and CS2, which in summary seek to direct development away from the Green Belt.

Other Considerations

14. I have carefully considered the comments made in respect of the proposed development. This includes its compliance with other planning policy objectives in respect of character and appearance, highway safety, flood risk and the living conditions of neighbouring occupants. The absence of harm in those respects is essentially neutral in my determination of the appeal. I therefore give these considerations limited weight.
15. I note the support of some neighbours, the dispute in respect of distance to adjoining properties and the appellant's reference to case law⁶.
16. I also note the comments made in respect of the economic and social benefits of the scheme, including the contribution of one extra dwelling to the area's housing supply and mix. I acknowledge other advantages, including the site's relatively sustainable location, it not being isolated, the provision of employment opportunities during construction and the bringing about of extra trade to local services once occupied. I also note the appellant's comment in respect of the efficient use of a previously developed site, where it would be viewed in the context of other properties. Nevertheless, the proposed development would be inappropriate development in the Green Belt. These considerations, and benefits, do not outweigh that harm. I therefore give these considerations limited weight.

⁵ Braintree DC v Secretary of State for Communities and Local Government [2018] EWCA Civ 610.

17. My attention is drawn to a nearby site and planning consent⁷ for the erection of a dwelling. However, that development appears to have ultimately been found to not have a harmful effect on openness. The circumstances at that site are not, therefore, directly comparable with the appeal site. In any event, I have assessed the appeal based on the evidence before me and the site's individual circumstances. I therefore give these considerations limited weight.

Green Belt Balance and conclusion

18. The Framework indicates 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 the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
19. Cumulatively, I attach no more than limited weight to the benefits of the proposed development which make up the other considerations. As such, the other considerations do not clearly outweigh the harm to the Green Belt and the very special circumstances necessary to justify the development do not exist. The proposed development would not therefore accord with the Green Belt protection aims of the Framework, or CS Policies CS1 and CS2, as set out above.
20. From the evidence before me, the Council is unable to demonstrate a five-year housing supply. 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 proposed development. In this case, I have found that there would be harm to the Green Belt. Therefore, the proposal would not benefit from the presumption in favour of sustainable development in this instance.
21. Accordingly, I conclude that the appeal should be dismissed.

A. Price

INSPECTOR

⁷ 2014/0234