



Appeal Decisions

Site visit made on 15 November 2022

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Appeal A Ref: APP/G2245/W/22/3290952

Garages to the east of Lombard Street, Lombard Street, Horton Kirby DA4 9DF

- 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 J Chambers against the decision of Sevenoaks District Council.
 - The application Ref 21/02577/FUL, dated 3 August 2021, was refused by notice dated 7 January 2022.
 - The development proposed is Demolition of existing garages and erection of two x 3 bed dwellings, together with landscaping and parking.
-

Appeal B Ref: APP/G2245/W/22/3298439

Garages to the east of Lombard Street, Lombard Street, Horton Kirby DA4 9DF

- 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 J Chambers against the decision of Sevenoaks District Council.
 - The application Ref 22/0341/FUL, dated 8 February 2022, was refused by notice dated 5 April 2022.
 - The development proposed is Demolition of existing garages and erection of two x 3 bed dwellings, together with landscaping and parking.
-

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. Both appeal schemes are similar in terms of their overall footprint and location within the site. Where the schemes differ, is in their internal layout and external appearance. With regard to the external appearance of Appeal A, this scheme provides a contemporary design, material and finish and contains larger window openings at upper floor level at the rear of the proposed dwellings. The dwellings subject to Appeal B have a more traditional appearance with more modest rear first floor windows. Appeal B has also been set down within the site resulting in an overall reduced height of approximately 500mm.

Main Issues

4. The main issues on both appeals are:

- Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2021 (the Framework) and any relevant development plan policies;
- The effect of the development on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the area;
- Whether satisfactory living conditions for future occupiers would be provided; 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 justify the proposal.

Reasons

Whether or not the development would be inappropriate

5. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in Paragraph 149. Criterion g) of paragraph 149 states that one such exception is the complete redevelopment of previously developed land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development.
7. The Framework defines PDL¹ as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The definition also applies a number of exclusions, none of which are relevant here. Given the presence of an existing garage/lock up/storage facility the site would represent PDL and as such the exception under Paragraph 149 g) could apply to this case, and as such I will need to assess the impact of the proposed developments on openness.

Effect on openness in the Green Belt

8. There are spatial and visual aspects to the assessment of the openness of the Green Belt. In spatial terms, the overall footprint of the proposals would be similar to the existing development at the site, and in this regard could have a limited effect on the openness.
9. However, in visual terms the schemes would provide an additional storey and a gabled roof slope, creating significant additional height and mass in contrast to the existing development. I note the existing boundary treatment, a close board fence at approximately 2m provides a degree of screening of the site.

¹ Annex 2 Glossary of the Framework

However, this is to be replaced by a 1m dwarf wall as part of the proposal which would do little to assist in screening the proposal from public vantage points. Consequently, given there would be an increase in height and mass at the upper floor level, this would be clearly visible from vantage points in Lombard Street and the surrounding area and as such, would lead to a reduction in its visual openness.

10. It is acknowledged that the Appeal B scheme has been set down into the ground to reduce its visual appearance, and the effect on the visual openness would be more limited than that of Appeal A. Nevertheless, I find that both schemes would result in a greater impact on the openness of the Green Belt. There would be conflict with the Framework paragraph 137 which refers to the essential characteristics of Green Belts as being their openness and their permanence.

Character and appearance

11. It is acknowledged that the site itself occupies an area adjoining the Oak View Stud Farm industrial estate, consisting of a number of commercial activities, providing a more built appearance in the surrounding area. Whilst many of these units are single storey and have little or no height, these features contrast strongly with the much less developed open spaces that surround the area, and both the Appeal A and B schemes would be set within this more developed setting.
12. Whilst located in the Green Belt, the immediate area of the Oak View Stud Farm industrial estate has a more commercial and developed nature. Despite being outside the village boundary of Horton Kirby, the surrounding area nevertheless has a small village feel. Oak View Stud Farm industrial estate is located at the bottom of a slope, with residential properties located in an elevated position overlooking the appeal site. The change in land level provides a varied appearance to the built environment with the existing properties in Lombard Street, School Lane and Rashleigh Way located in an elevated position in comparison to the existing garages and the proposed developments subject to Appeals A and B.
13. Both schemes provide a domestic feel and appearance and in this context the schemes would conform to the general pattern of development along Lombard Street and would not appear unduly dominant or out of place. Furthermore, in terms of the size and height, the proposals have had regard to the existing residential buildings in the area and would follow the general vernacular of development. Whilst providing alternative material finishes neither Appeal A nor Appeal B would appear out of keeping.
14. With regard to its position in the plot and relationship with neighbouring buildings, the existing property is already set back from the street and the proposals will replicate this arrangement. Whilst the forecourt would be used for off-street parking, the appellant draws my attention to the recent planning permission² granted at the adjoining site for a small public car park, and in this context neither proposal would appear unduly prominent or detrimental to the visual amenities of the street scene. Furthermore, the provision of vegetation to the front and side boundaries would soften views and screen the parking.

² Sevenoaks District Council Planning Ref: 21/02578/FUL

These details are highlighted on the plans but are matters that could be subject of a condition, to allow for further detailed design.

15. The proposals would not therefore harm the character and appearance of the surrounding area. As such, they would accord with the principles of Policy SP1 of the Sevenoaks District Council Local Development Framework Core Strategy Development Plan Document, adopted February 2011 (SCS) and Policy EN1 of the Sevenoaks District Council Allocations and Development Management Plan, adopted February 2015 (DMP) which amongst other things, require all new development to be of high-quality design, responding to and respecting with the developments and character in the surrounding area. The proposals would also comply with guidance in Paragraph 130 c) of the Framework insofar as it requires development to be sympathetic to local character.

Living conditions for potential occupiers

16. Paragraph 185 of the Framework is clear, that proposals should amongst other aspects, avoid noise giving rise to significant adverse impacts on health and quality of life. Paragraph 187 also makes it clear that decisions should integrate effectively with existing businesses, and where the operation of an existing business could have a significant adverse effect on new development, the applicant (or 'agent of change') should provide suitable mitigation before the development is completed.
17. Planning Practice Guidance (PPG) sets out further detailed guidance³, including relating to the 'agent of change' principle. This includes taking into account current activities, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made. The 'agent of change' will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified. Adopting this approach may not prevent all complaints from the new residents/users about noise or other effects but can help to achieve a satisfactory living or working environment and help to mitigate the risk of a noise nuisance being found.
18. Oak View Stud Farm industrial estate has a commercial nature with a number of operations on site including storage, gymnasiums, car and vehicle repairs. As such, given the location and proximity of the proposals to Oak View Stud Farm industrial estate, the introduction of a new residential use in this area would create a sensitive relationship. This could lead to potential conflict between parties, and noise complaints which may necessitate enforcement action. Any noise nuisance reported could thus lead to pressure for restrictions to be placed on the users/patrons of the commercial premises, such that unreasonable burdens might be placed on these users' contrary to the guidance of the PPG.
19. Both the Council and the appellant highlight that conditions could be attached requiring mitigation measures to be incorporated within the design. However, there is no evidence before me to clarify what the existing noise levels are, nor whether any potential sound insulation measures would be adequate, as there are no quantifiable calculations on how the internal noise level criteria would be achieved. As such, given that it cannot be guaranteed that the sound attenuation measures would be sufficient to control the noise nuisance, I am

³ Paragraph: 009 Reference ID: 30-009-20190722

not persuaded that this can be controlled by a condition, and I must adopt a precautionary approach.

20. In regard to the proposed amenity space, whilst the schemes would provide outdoor amenity space for both residential units, this provision would be limited by the topography at the rear and proximity to the adjoining industrial estate. The rear of the appeal site would consist of a tight garden area, surrounded by existing high boundary fences and industrial paraphernalia. The modest separation distance across the proposed garden, coupled with the height of the existing structures would dominate any views from the proposed garden area. Collectively these features would appear overbearing providing poor outlook from the amenity spaces for future occupiers.
21. Consequently, neither the Appeal A nor B schemes would provide acceptable living conditions for their future occupiers. The proposal is therefore contrary to the relevant provisions of Policy EN2 of the DMP which amongst other things, seeks to safeguard the amenities of existing and future occupiers. It would also be contrary to the guidance at Paragraph 130 f) of the Framework which, amongst other things, also seeks a good standard of amenity for all existing and future occupants of buildings.

Other considerations

22. The Council accepts that it cannot demonstrate a five-year housing land supply at present. As such, there would be moderate benefits in the provision of two new dwellings in this location in meeting the Councils undersupply.
23. The appellant considers the development has no adverse effect on the amenity of neighbouring occupants. Nonetheless, the absence of harm in this regard does not carry significant positive weight in favour of the development, and as such I give this matter limited weight.
24. The appellant also highlights that the provision of the public car park, granted permission on the adjoining land would provide a further benefit to the community. From my site observations the area is heavily parked and the provision of a public car park adjoining the appeal site would provide an added benefit to the area, through the reduction in the on-street parking demand. Given that both sites are under the control of the appellant, these could be linked through a condition to be brought forward together. The benefits are acknowledged, and as a result this weighs moderately in favour of the proposal.
25. I acknowledge that the visual amenities of the site could be enhanced as part of the proposal, and that proposed landscaping and other measures could also enhance the ecology and biodiversity of the site. These matters I have also ascribed moderate weight in favour of the proposal.

Green Belt balance

26. The proposals would result in a greater impact on the openness of the Green Belt and they would not meet the criteria set out in the Framework paragraph 149 g). The failure to preserve Green Belt openness would, by definition, be harmful. The appeal schemes would therefore represent inappropriate development. The Framework is clear that not only should substantial weight be given to any Green Belt harm, but that 'very special circumstances' will not exist unless that harm, and any other harm, is clearly outweighed by other

considerations. Whilst I have identified other considerations that weigh in support of the proposal in the Green Belt balance, they would not, either individually or cumulatively, clearly outweigh the Green Belt harm sufficient to amount to the 'very special circumstances' envisaged by the Framework.

Conclusion

27. The development conflicts with the development plan taken as a whole and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, both Appeal A and B are dismissed.

Robert Naylor

INSPECTOR