



Appeal Decision

Site visit made on 27 July 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Appeal Ref: APP/D3640/W/22/3296088

Cedars Garden Nursery, Church Road, Windlesham GU20 6BL

- 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 O'Connor against the decision of Surrey Heath Borough Council.
 - The application Ref 20/1213/FFU, dated 23 December 2020, was refused by notice dated 3 December 2021.
 - The development proposed is the demolition of the shed, canopy and greenhouses and the erection of a detached dwelling and associated access, hardstanding and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The second reason for refusal cited the appellant's failure to make a payment or provide a completed legal agreement for Strategic Access Management and Monitoring (SAMM) mitigation in connection with the Thames Basin Heaths Special Protection Area (SPA). The appellant has completed a Unilateral Undertaking and the Council has confirmed that this addresses the second reason for refusal. This is a matter that I will return to in the Other Matters section.

Main Issues

3. I consider the main issues are:
 - whether the proposal is inappropriate development in the Green Belt; and,
 - if the proposal is inappropriate development, 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 inappropriate development

4. The appeal site is situated in the Green Belt. 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.

5. The National Planning Policy Framework (the Framework) at paragraph 149 states that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. The appellant has set out that the development can be considered under the exception at paragraph 149 g) relating to the partial or complete redevelopment of previously developed land.
6. It is common ground between the main parties that the appeal site is previously developed land. In order to meet the exception at paragraph 149 g), it is necessary for the proposed scheme to not have a greater impact on the openness of the Green Belt than the existing development. In this respect, I have been provided with a comparison between the existing and proposed developments. I note the significant reduction in the footprint of development as well as in hardstanding areas across the site that would result from the proposal. The scheme would also result in a small reduction in the volume of development on the appeal site.
7. Despite this, the development, albeit the upper floor being partly contained within the roofspace, would be noticeably taller, extending to nearly twice the height of part of the existing built form and there would also be an increase in floorspace. I recognise that the proposal would be less spread out than the existing buildings and structures and in terms of the extent of hardstanding on the site which could be used for parking. However, the single mass and the taller, predominantly two storey height of the proposed dwelling, would make it more visible from surrounding views. The current buildings and structures are at lower level and many such as the glass house and polytunnels are formed mainly in transparent or other lightweight materials. The proposal would however be a more solid, predominantly brick built structure. As well as the loss in spatial openness, the prominent dwelling, which would be seen above the established hedges that form the boundary around much of the site, would result in the loss of visual openness.
8. Reference has been made to the use of the whole of the appeal site as an external sales area for retail sales associated with the nursery use. Whilst this could extend over a large area of land, I do not consider the effect of an open-air sales area would be as harmful to visual openness as the dwelling proposed, given the proposal's greater height and more solid form.
9. As such, and whilst acknowledging the site's status as previously developed land, the proposal would have a greater impact on the openness of the Green Belt than the existing site. Therefore, it would not meet the exception set out at paragraph 149 g) of the Framework.
10. Consequently, in not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt. The decision notice in relation to the first reason for refusal does not reference any development plan policies.

Other Considerations

11. The Council has stated that it can demonstrate a five-year supply of housing and this has subsequently not been disputed by the appellant. The provision of

a new energy efficient dwelling in an accessible location does however weigh in favour of the appeal. The development would better reveal a boundary wall that has been identified as a non-designated heritage asset and provide an opportunity to restore and enhance biodiversity and the landscape on the site. The development would also make a positive contribution to the economy during the construction phase, as well as expenditure by future residents on local services and facilities which would help sustain the vitality of rural communities. Given the proposal is for one net additional dwelling, such economic, social and other benefits, including biodiversity enhancements would attract limited positive weight.

12. The proposed development would result in the removal of the retail nursery, resulting in a less intensive use and reduced traffic movements. I have not been provided with further details on the extent of such traffic reduction, and as such, I am only able to afford this matter limited positive weight.
13. The proposal would lead to a significant reduction in the footprint of development and hardstanding. This would reduce the spread of building and structures on the appeal site but as I have set out earlier in the decision, the development would have a greater impact on the openness of the Green Belt given its height and form and these referenced reductions would not be a benefit of the proposed scheme.
14. Given the lawful use of the appeal site, I accept that the retail sale of goods could take place across the site and there is the possibility of the site being sold to a larger garden centre, although there is no evidence before me on the likelihood of this taking place should the appeal be dismissed. In any event, the range of goods for sale could be extensive, but the type of goods identified, such as gardening and horticultural products would likely be stored at ground level. This would not be as or more harmful than the predominantly two storey form of the appeal scheme, which would, due to its height and form, have a greater impact on the Green Belt. I therefore attach limited weight to this consideration.
15. Reference has been made by the appellant to a planning permission at the nearby Windlesham Stables which also related to a proposed two storey dwelling. Some details of this approval have been provided and whilst there are some similarities with the scheme before me, it is also evident that the circumstances of Windlesham Stables differed as it proposed a reduction in footprint, volume as well as the floorspace. An existing barn and stable block were also higher than any existing building or structure on the appeal site. As such, this case is not therefore directly comparable to the appeal scheme and I attach limited weight to it and can confirm that I have dealt with this appeal on its own merits.
16. The proposal would not give rise to any adverse impacts on living conditions, highway safety or with regards to trees. It would be acceptable in relation to its effect on the character and appearance of the area, whilst preserving the character and appearance of the Conservation Area and the setting of nearby listed buildings. It would cause no unacceptable effects on archaeology and the loss of employment would not be harmful. I also note there has not been objections from certain consultees. These are however neutral matters that do not weigh in favour of the proposal, as is the lack of conflict with a number of development plan policies.

Other Matters

17. The development would result in a net additional dwelling with a consequent increase in population within the zone of influence of the Thames Basin Heaths SPA. The SPA consists of a network of heathland sites that provide a habitat for internationally important bird species, namely, the nightjar, woodlark and dartford warbler. These species nest at low level and are easily disturbed by human activity such as recreational walking and predation by domestic cats. The SPA is likely to be adversely affected from additional recreational activities associated with a net increase in the population living within the zone of influence of the protected area.
18. There is agreement between the main parties that the mitigation measures should include contributions towards provision of SAMM. However, as I am dismissing the appeal for other reasons, further consideration of this, including the need for me to undertake an appropriate assessment and consider any planning obligation advanced to provide mitigation in this respect, is not required.

Conclusion

19. The proposed development would be inappropriate development, which the Framework clearly sets out is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any 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.
20. I have attached limited weight in favour of the scheme to the provision of a net additional dwelling on this site, to the economic and social benefits, as well as enhancements to biodiversity, landscape and to a non-designated heritage asset. I also attach positive weight, albeit limited for the reasons set out, to the removal of the retail nursery. The various other considerations raised, are neutral matters.
21. With this in mind, the substantial weight I have given to the Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
22. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR