



Appeal Decisions

Site visit made on 26 April 2022

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal Ref: APP/K2230/W/21/3282227

Rockley House Wrotham Road, Culverstone, Gravesend, DA13 0QN

- 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 & Mrs M Greene against the decision of Gravesham Borough Council.
 - The application Ref: 20210195, dated 5 February 2021, was refused by notice dated 28 May 2021.
 - The development proposed is described as the 'conversion of existing garages and stores to a 2 bedroom single storey dwelling including new rooflights and fenestration changes. New vehicle access and driveway'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This decision relates to a single appeal. The appeal has 'travelled' with a second appeal¹. Whilst these two appeals relate to the same address, they concern different appeal sites and existing buildings and the proposed development sought is different. The appeals are not so closely related as to justify dealing with both appeals within the same decision letter. Therefore, whilst I carried out the site visit for each appeal on the same date, I have undertaken each appeal within a separate decision letter.
3. Since the Council issued the decision notice, a revised National Planning Policy Framework (the Framework) was published on the 20 July 21. I have had regard to the revised Framework in my consideration of this appeal.
4. As part of the appeal the appellant has provided a number of revised plans, drawing numbers 7456-PD-001 Rev A; 7456-PD1-010 Rev A and 7456-PD1-011 Rev A. These show a revised access and parking arrangement. It is not clear to me that these plans formed part of the original application and that interested people's views were sought upon them. Whilst the revised access would utilise the existing site entrance from the highway, this amounts to an intensification of the use and as such I therefore cannot be satisfied that no party would be prejudiced by my consideration of the revised drawings in the appeal. Consequently, I have determined the appeal on the basis of the scheme and the plans which were before the local planning authority when it made its decision, namely, 7456-PD1-001; 7456-PD1-002; 7456-PD1-003; 7456-PD1-010 and 7456-PD1-011.

¹ APP/K2230/W/21/3282228

Main Issues

5. The main issues are:-

- i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- ii) the effect on the openness of the Green Belt;
- iii) the effect of the proposal on the character and appearance of the area with particular regard to the Meopham Downs Landscape Area;
- iv) the effect of the proposed development on highway safety; and
- v) would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

- 6. The appeal site is located within the Metropolitan Green Belt. Paragraph 149 of the Framework makes it clear that the construction of new buildings within the Green Belt will be regarded as inappropriate save for certain categories of development which may be regarded as not inappropriate.
- 7. One such exception at paragraph 149(g) provides for the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use. In order to satisfy the remaining part of paragraph 149(g), the development must not have a greater impact on the openness of the Greenbelt than the existing development or not cause substantial harm to the openness of the Green Belt, where the development would contribute to meeting an identified affordable housing need. However, in this case, it has not been put to me that the proposal is for affordable housing.
- 8. In addition, paragraph 150 of the Framework sets out that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Of relevance to the appeal scheme is paragraph 150(d) which concerns the re-use of buildings provided that the buildings are of permanent and substantial construction. It has not been put to me by the Council that the building fails to be considered as 'permanent and substantial construction'.
- 9. Setting aside the dispute over which paragraph of the Framework should be applied to this appeal, either paragraph 149(g) or paragraph 150(d), both provisions require an assessment of the appeal scheme on their effect on openness.
- 10. The appeal scheme would utilise the existing single storey garage and attached store buildings thus not causing any increase in the footprint of the building. The existing pitched roof structures of the centrally positioned garage building and the eastern store building would not be altered. However, the existing roof above the western store building would be increased in height by some 700mm, taking the appellants measurements which have not been disputed by

the Council. It would introduce a more steeply pitched structure unlike the current roof form which is broadly flat with a gentle slope.

11. Although the newly created roof would have a lower ridge height than the adjoining central section of the proposed dwelling and it forms only part of the proposed dwelling and is limited in size, there would nonetheless be an increase in height and pitch of this part of the roof. Existing openings would be used to provide a number of windows and doors. However, additional ones would be inserted including a number of rooflight windows together with additional substantial sized floor to ceiling height openings in the elevation positioned furthest from the highway.
12. I accept that the appeal site forms part of an existing residential use and it would be open to the appellant to use the site for the parking of vehicles, the storage of bins and for garden paraphernalia including tables and chairs, children's play equipment and washing lines in conjunction with the use of Rockley House. However, the appeal scheme would lead to a more intensive use of the wider site by reason of the appeal site having its own vehicles, bins and garden items, over and above those already associated with the residential use of Rockley House. Use as a dwellinghouse is likely to require more substantial lighting and for a greater period of time than the existing use of the garage. This would be more evident given the insertion of windows and doors where previously these openings were constructed in solid opaque materials.
13. Notwithstanding that the scheme would utilise existing hardstanding areas for the parking of vehicles, there is little information before me as to the construction of the proposed access driveway to the front of Rockley House. In my view, it is likely that some additional surfacing would be required to facilitate the access driveway and additional boundary treatments to differentiate the parking and access areas from areas of private garden. Similarly, whilst a boundary line is shown upon the submitted plan, there is little information regarding its intended construction and materials.
14. Taken together, these changes would be considerable and would create the appearance of a dwellinghouse. Notwithstanding other built form and domestic accoutrements in the immediate vicinity, the changes would increase the building's prominence in the open countryside. When comparing the alterations to the building in terms of its height, volume, bulk and mass of the appeal scheme against the existing situation, these changes would be fairly modest. However, when taken together with the changes to the fenestration and the intensification of the use and increased residential activity, the proposal would clearly have a significantly greater impact on the openness of the Green Belt and the purpose of including land within it. The appeal scheme therefore fails to meet the exception set out in paragraph 149(g) of the Framework.
15. In addition, as paragraph 150(d) also requires the development to preserve the openness of the Green Belt and not to conflict with the purpose of including land within it, given my reasoning above, I do not find that the appeal scheme achieves this.
16. Consequently, I conclude that the exceptions set out in paragraphs 149(g) and 150(d) of the Framework have not been met and in my view the proposed development would be inappropriate development. The Framework states that such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

17. In addition, the scheme would fail to accord with Policy CS02 of The Gravesham Local Plan Core Strategy (2014)(CS) insofar as this policy seeks to distribute new housing in accordance with the settlement strategy for the borough inset from the Green Belt and in accordance with the national policies for protecting the Green Belt.

Openness

18. The Government attaches great importance to Green Belts, noting that 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 establishes that substantial weight should be given to any harm to the Green Belt.
19. Openness has both a visual and spatial dimension and in respect of the appeal scheme it has an adverse effect on both of these elements of openness.
20. For the reasons explained above, I consider that the proposal would have a significant effect on openness such that it causes harm to the Green Belt and conflicts with the purposes for including land within it.

Character and appearance

21. The appeal site is located within the Meopham Downs Landscape Character Area (LCA) where its key characteristics are noted to include, among other things, narrow lanes and roads that are lined with hedgerow within a gently undulating topography with a mixture of arable and pasture farmland.
22. As a consequence of the proposed new access onto the A227, South Street, and in order to provide the required lines of sight at the access with the highway it would be necessary to remove of significant length of hedgerow to either side of the new access.
23. The existing hedgerow is mature, well-established and extensive, spanning across the majority of the front boundary of Rockley House where it borders the highway. Given its physical attributes and the presence of similar hedgerows along the highway, hedgerows are an important feature in providing containment of plots and a sense of enclosure to the highway. It is a characteristic feature of the LCA and thus makes a significant positive contribution to the landscape character of the area.
24. The appeal scheme would be likely to lead to a loss of a significant length of hedgerow, thus eroding the sense of enclosure and containment that is presently afforded by it. Whilst the impact would be localised, its effect would be considerable resulting in a substantial adverse visual effect to the detriment of the LCA.
25. Whilst I noted that large openings providing access to properties are not uncommon along this part of the highway, their presence points to a need to preserve hedgerow boundaries if the character and appearance of the area and landscape character is to be preserved.
26. The Council's concerns, in part, also relate to the intensification of use and a change of character from an outbuilding to a self-contained dwelling. However, given its position relative to Rockley House, a residential dwelling in reasonably close proximity and the presence of other dwellings along the highway, whilst

its visual appearance would alter I am not satisfied that this change would undermine the key characteristics of the area.

27. Nevertheless, this would not overcome the harm that would arise from the newly formed access and this is a matter to which I attach considerable weight.
28. Accordingly, I conclude that the proposed development by reason of the creation of a new vehicular access would be materially harmful to the character and appearance of the area. It would conflict with CS Policies CS12 and CS19 insofar as these policies seek to conserve, restore and enhance overall landscape character and valued landscapes. There would also be conflict with the aims of the Framework which seeks to conserve and enhance the natural environment.

Highway safety

29. The submitted plans indicate that a new vehicular access would be created giving access to the A227, South Street, a classified A road with a 30mph speed restriction. In doing so, visibility splays in the region of 43 metres by 2.4 metres in each direction from the access point would be required to ensure highway safety was not unduly compromised and thereafter maintained to ensure that there would be no obstruction over 1.05 metres above carriageway level within the splays.
30. Setting aside the issue of character and appearance, which I have addressed above, to achieve the required sight lines it would be necessary to remove large sections of hedgerow to either side of the access. Whilst I note that the Highway Authority did not object to the scheme on the grounds of highway safety, this was subject to the requisite visibility splays being achieved and maintained.
31. On the basis of the evidence and the plans before me it has not been demonstrated that the visibility splays could be achieved. My observations showed that visibility from the proposed access is reduced by existing vegetation and the curve of the road. Furthermore, given the length of the splay that is required, it has not been adequately demonstrated that the land required for the necessary visibility splays is within the ownership or control of the appellants. I therefore cannot be satisfied that the splays could be provided and kept free of obstruction thereafter.
32. In the absence of adequate visibility and in order to egress the site, vehicles are likely to edge into the highway without a clear view of oncoming traffic. This would be likely to materially compromise highway safety.
33. Overall, on the basis of the evidence before me, I conclude that the proposed development fails to demonstrate that safe and suitable access to the site could be achieved. Consequently, it has not been shown that there would not be an unacceptable impact on highway safety. This would be contrary to CS Policy CS11 and Policies T1 and T5 of the Gravesham Local Plan First Review (1994) insofar as these policies seek to require acceptable access that preserves safe access to the highway network for all users. Similarly, the scheme would conflict with the guidance of Gravesham's Planning Guidance Note 6 for Vehicle Accesses on Classified Highways (2009) and it would fail to accord with the provisions of the Framework insofar as these seek to prevent development on

highways grounds where there would be an unacceptable impact on highway safety.

Other Considerations

34. The appeal scheme would amount to inappropriate development in the Green Belt. It would also result in significant harm to the openness of the Green Belt and conflict with the purposes of including land within it, namely, safeguarding the countryside from encroachment. In accordance with paragraph 148 of the Framework, substantial weight should be given to these harms.
35. I have also identified that there would be harm to the character and appearance of the area and the landscape character of the Meopham Downs LCA and highway safety.
36. The considerations weighing in favour of the appeal scheme includes the contribution of an additional dwelling. Having regard to the Council's shortfall in housing land supply, I attach significant weight to the provision of an additional dwelling to housing supply. The appeal scheme makes efficient use of land. Small sites can often be built out quickly. In addition, there is no dispute between the parties that the appeal site occupies a reasonably sustainable location with access to public transport and local shops and facilities. Residents of the new dwelling would contribute additional spending to those local services and facilities and increase revenue through council tax, albeit given the scale of the scheme proposed for one additional dwelling, such benefits would be modest. Economic benefits arising during construction would be temporary and modest in scale and therefore I attribute this matter modest weight.
37. Drawing all of these matters together, notwithstanding the significant benefit afforded by the provision of an additional dwelling, I find that the other considerations in this case, either individually or cumulatively, do not clearly outweigh the harm to the Green Belt that I have identified. There would be additional harm to the character and appearance of the area including landscape character together with harm from highway safety. Looking at the case as a whole, I consider that the very special circumstances do not exist to justify the development.

Other Matters

38. No adverse harm has been identified with regards to the quality of accommodation which would comply with the space standards set out within the Nationally Described Space Standards. There would be adequate outlook and levels of light to all habitable rooms. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
39. My attention has been drawn to a previous appeal decision². I note the previous Inspectors findings with regards to highway safety. The appeal before me proposes a different position of the access opening. In any event, my views concerning the loss of hedgerow and its consequent impact on the character and appearance of the area concurs with the previous appeal decision.
40. Reference has been made to a number of other appeal decisions in support of the appeal scheme. In respect of the appeal at Whiteways³ concerning the

² APP/K2230/D/19/3235315

³ APP/K2230/W/17/3166585

change of use to a separate unit of residential accommodation, the building was already in a residential use as a dwelling ancillary to its host dwelling with a number of habitable rooms. Unlike the appeal scheme, it involved no exterior alterations. Consequently, this scheme is not directly analogous with the appeal before me and a comparison is of limited relevance. I have determined the appeal scheme before me on its individual planning merits.

Planning Balance and Conclusion

41. The Council are not able to demonstrate a five year supply of housing sites as required by the Framework. In these circumstances, paragraph 11(d) indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
42. Footnote 7 identifies policies in the Framework that are relevant to this approach, one of which is land designated as Green Belt. I have found that very special circumstances do not exist such that, approving the proposal would be inconsistent with those policies of the Framework that relate to Green Belt. As such the tilted balance is not engaged.
43. In any event, even if I had been minded to find that the tilted balance were to be engaged, the adverse impacts of granting permission with regards to character and appearance, landscape harm and highway safety would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.
44. There are no material considerations of sufficient weight or importance that determine that the decision should be taken otherwise than in accordance with the development plan and therefore, for the above reasons, having regard to all other matters raised, I conclude that the appeal should be dismissed.

E Brownless

INSPECTOR