



Appeal Decision

Site visit made on 8 February 2023

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/C3620/W/22/3299174

Coal Yard, 23 The Street, Charlwood RH6 0BY

- 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 Cavello Homes against the decision of Mole Valley District Council.
 - The application Ref MO/2021/2214/PLA, dated 26 November 2021, was refused by notice dated 13 May 2022.
 - The development proposed is demolition of existing coal merchants yard and ancillary office building; and erection of five dwellings, with associated parking and landscaping.
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Decision

1. This appeal is dismissed

Preliminary Matters

2. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. Under the adopted development plan, part of the site is within the Green Belt. I have therefore assessed the appeal on this basis. Nevertheless, I acknowledge that changes are proposed to the Green Belt boundaries in an emerging plan and I will address this consideration in my decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect of the proposal on the openness of the Green Belt.
 - The effect of the proposed development on the character and appearance of the area.
 - Whether any 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 the proposal would be inappropriate development

4. The National Planning Policy Framework July 2021 (the Framework) sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by

keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions in paragraph 149 of the Framework.

5. Of relevance to this appeal is that 'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development' is listed as an exception in paragraph 149g.
6. It is accepted that the Coal Yard is previously developed land. Under paragraph 149g I am also required to assess the effect on openness.

Openness

7. Openness has both spatial and visual dimensions. The site is presently laid to hardstanding with a small office building close to the road, but its use as a Coal Yard has ceased. At my site visit it was apparent that the timber dividers between coal stores had been removed. Proposed house 1 would not be in the Green Belt. Nevertheless, the proposed development of 4 generous two storey dwellings within the Green Belt would result in a significant increase in built form in this location in terms of height, footprint and volume. As such there would be a greater impact on the spatial openness than existing.
8. House 1 would front the road, but would allow glimpsed views of the houses behind. Even with the proposed planting, properties 2-5 would be likely to be visible from the nearby dwellings and from the open land to the rear of the site. As such there would also be a greater impact on visual openness.
9. Consequently, the appeal scheme would be inappropriate development in the Green Belt in the terms of the Framework. It would also be harmful to the openness of the Green Belt and contrary to the Framework in this regard.
10. Policy CS1 of the Mole Valley Core Strategy (2009) (the CS) states that development in the countryside will be considered in line with Government Guidance in PPG2 'Green Belts', amongst other things. PPG2 has been replaced by the Framework. The aim to consider applications against the Government's Green Belt policies remains consistent with the Framework. For the reasons set out above, the proposed development would be contrary to this policy.

Character and Appearance

11. To the south of The Street, between Lowfield Heath Road and the public open space there is a row of residential houses of varied appearance fronting the road generally with long rear gardens. There are properties behind no 33 and 35, but these are set well back behind the generous gardens of no 33 and 35, and are therefore spacious in their own right. Whilst there is hardstanding and was previously coal storage and associated activity at the rear part of the appeal site, it does not include any permanent buildings. The pattern of development in this area is therefore a ribbon of built form with generally open land to the rear which results in a spacious character to the houses and an appropriate transition to the open countryside land beyond.

12. The main residential part of the village is to the north of The Street. In this area there has been new development including higher density infill development in the Limes¹ site and development to the rear of other properties at The Forge². However, these are located in this more tight knit residential area, where the character is notably different to the immediate surroundings of the Coal Yard. As such they do not alter my assessment of the existing character and appearance of the appeal site.
13. The proposed development would introduce four dwellings to the rear part of the appeal site. Their rear gardens would be limited in depth, just 6m at houses 2 and 3, and they would be located close behind 25a-27 The Street. The proposed dwellings would therefore introduce a significant amount of built development to the rear of the properties fronting The Street which would harmfully undermine the open character of the land in this location. Furthermore, the plot sizes and spaces around the buildings would be uncharacteristically small for this setting, and this would harmfully undermine the existing spacious pattern of development. This remains the case even though the properties would have an open aspect to the rear. The proposed development would therefore result in a cramped and unacceptably tight knit development in this context which would be significantly harmful to the character and appearance of the area.
14. The plots would not extend any further than the rear boundaries of 1-21 The Street and I do not identify harm in this regard. Amendments have been made to the proposals during the application process including the removal of the office building, increased separation, and excluding car ports. My assessment is on the basis of the plans on which the Council made their decision.
15. As such the proposed development would be significantly harmful to the character and appearance of the area. This would be contrary to policy CS14 of the CS and policies ENV22, ENV23 and ENV24 of the Mole Valley Local Plan (2000). Together these require that new development respects and enhances the character of the locality, including having regard to the space around buildings, respecting the setting and being appropriate to the site in terms of scale and form. These policies are broadly in line with the aims of the Framework to create high quality, beautiful places.

Other Considerations

Emerging plan

16. The Future Mole Valley Local Plan (2022-2037) (Emerging Plan) proposes changes to the Green Belt boundaries which would take the appeal site out of the Green Belt.
17. The Local Plan examination has commenced, although the plan has been paused following Government announcements with a further main modification proposed which relates to site allocations within the Green Belt. However, the Council's states that whether or not any changes to site allocations are taken forward the Coal Yard would still be removed from the Green Belt, and this view is echoed by the appellant. As such, based on the evidence before me, the emerging plan is at an advanced stage of preparation in relation to this matter

¹ LPA ref MO/2021/1090

² LPA ref MO/97/0602

and it is quite possible that the alterations to the Green Belt boundary at the Coal Yard site will be adopted in their current form.

18. The appellant also raises concerns about whether the existing Green Belt boundary is in accordance with current policy about defining boundaries using physical features. However, this consideration of whether the site should be included within land designated as Green Belt or not is a matter for the development plan review process and not a S78 appeal.
19. Therefore, I afford positive weight to the Emerging Plan's Green Belt boundaries. If the site were not in the Green Belt, the policy considerations which give rise to the harm identified by reason of inappropriateness and harm to openness would fall away. However, it is necessary that I afford greater weight to the adopted development plan position at this stage as there cannot be absolute certainty that the appeal site will be removed from the Green Belt.

Other

20. The proposed development would provide the social and economic benefits of the provision of 5 new family sized dwellings within an accessible location. These would make an important contribution towards the housing needs of the borough. Albeit, due to the size of the development these benefits are limited in their scale.
21. A condition is recommended which would secure details of landscaping including measures to provide biodiversity net gain. However, as the detail is yet to be secured, the extent of any benefit in this regard is limited at this stage.
22. There is no dispute between the main parties in relation to the quality of the proposed accommodation in terms of floorspace or garden sizes, the effect on the living conditions of neighbouring occupiers or the amount of car parking proposed. However, the lack of harm in these regards is a neutral factor that does not weigh in favour of the development.

Green Belt Balance

23. I am required to consider whether the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
24. The Government attaches great importance to Green Belts. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt. I have found harm to the Green Belt by reason of the proposed development's effect on openness and associated inappropriateness, in accordance with the adopted development plan which attracts full weight. I have also identified significant harm to the character and appearance of the area. The proposed development is therefore not in accordance with the development plan.
25. In this case it is quite possible that the site would be removed from the Green Belt under the Emerging Plan and as such the development would no longer be inappropriate development in the Green Belt, nor would there be a requirement to preserve the openness of the Green Belt. This attracts positive weight in favour of the development. This is alongside the important but limited scale benefits to the supply of homes and the limited benefits to biodiversity.

26. However, even with the positive weight afforded to the Emerging Plan position, the other considerations in this case do not clearly outweigh the totality of the harm. This includes both the significant harm to character and appearance as well as the full weight afforded to the harm to the Green Belt in respect of an assessment against the adopted development plan.
27. The very special circumstances necessary to justify the development therefore do not exist. Consequently, the proposed development would conflict with paragraph 148 of the Framework and Policy CS1 of the CS the aims of which are set out above.

Other Matters

28. The Local Planning Authority cannot demonstrate a 5 year supply of deliverable housing sites. Indeed, it is not disputed that there is a 2.9 year supply. Therefore paragraph 11(d) of the Framework is engaged. However, given that policies that protect areas of particular importance (in this case, Green Belt) provide a clear reason for refusing the development proposed, the presumption in favour of sustainable development does not apply in this case.

Conclusion

29. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR