



Appeal Decision

Site visit made on 4 April 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2023

Appeal Ref: APP/G2245/W/21/3287024

Unit 1, Westwood Cottage, Rock Hill, Orpington BR6 7PP

- 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 John Pittaway of Ushyma Westwood against the decision of Sevenoaks District Council.
 - The application Ref 21/00895/FUL, dated 19 March 2021, was refused by notice dated 17 May 2021.
 - The development proposed is the demolition of existing light industrial units and removal of extensive areas of concrete hardstanding surrounding same and erection of 6x5-bed detached dwellings, 2x4-bed detached dwellings, and 1x3-bed (affordable) dwelling and one office with new planting to adjoining land in same ownership.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policies, and the effect on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area, including on the Kent Downs Area of Outstanding Natural Beauty (AONB);
 - the effect of the proposed development on biodiversity and protected species; 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 development.

Reasons

Green Belt considerations

3. The appeal site comprises a parcel of land accessed via a track from Rock Hill. It contains a group of buildings in commercial use with hardstanding, together with a grassed area and a series of mature trees. The site lies within the Green Belt.

4. National Green Belt policy in 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, 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.
5. No relevant development plan policies concerning the Green Belt were cited in the Council's decision notice. However, the Sevenoaks District Council *Development in the Green Belt* Supplementary Planning Document (the SPD, adopted 2015) broadly conforms to the general thrust of national Green Belt policy, supporting the redevelopment of previously developed sites where the proposal would not have a greater impact on the openness of the Green Belt.
6. Given the nature of the site, specifically the permanence of existing structures and areas of hardstanding, I acknowledge that the site may be characterised as previously developed land in line with the definition in the Framework. I also note that there is no dispute on this point between the Council and appellant. Nevertheless, even where it is the case that land is previously developed, it is a requirement of the national policy and local guidance referenced above that the proposed development would not have a greater impact on the openness of the Green Belt.
7. The Framework indicates that openness is an essential characteristic of the Green Belt, and a fundamental aim of Green Belt policy is to keep land permanently open. The openness of the Green Belt has a spatial as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
8. At present, the north part of the site forms an area of grassland. This retains an essentially open and verdant character set amongst established buildings to the south and west of the site. The proposed development would introduce built development to this part of the site, including two dwellings and an office building. This proposed built form would inevitably reduce the existing visual and physical openness of the site. Moreover, it would give rise to associated paraphernalia, including multiple parked cars and individual garden spaces, which would contribute to a further loss of visual openness. Similarly, the proposed activity in and around the buildings, particularly the office building, would add to the reduction in openness in this part of the site, beyond a simplistic reliance on amount of ground covered or overall volume.
9. 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. The proposed development would be contrary to the relevant provisions of the SPD, which in summary seeks to support the redevelopment of previously developed sites where the proposal would not have a greater impact on the openness of the Green Belt. There is no local plan policy before me which would conflict with those objectives.

Character and appearance, including effect on AONB

10. The site is located within the Kent Downs AONB, and within the Knockholt: Darent Valley Landscape Character Area. AONBs are designated for the

purposes of conserving and enhancing natural beauty. Section 85(1) of the Countryside and Rights of Way Act 2000 (as amended) places a duty upon me to have regard to these purposes in this decision. Supporting this objective, the Framework paragraph 176 sets out how great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.

11. The surrounding area has a rural character, largely comprising agricultural land with equestrian uses and woodland amongst it. Farms, individual dwellings, clusters of development and the M25 motorway also exist in the landscape, some of which can be viewed from the site.
12. Parts of the appeal site can be glimpsed from Rock Hill, Well Hill Lane, from the site entrance and from the nearby public right of way. The appellant's submitted Landscape and Visual Impact Assessment and Green Belt Assessment (the LVIA), dated June 2021, also identifies views from further afield, limited to a few locations. I accept that intervening landscaping and the topography of the site and surrounding area is such that views from a number of vantage points is reasonably limited.
13. Nevertheless, where visible, the appeal site retains a reasonably modest, agricultural character on account of the scale, style and arrangement of the existing buildings. Their utilitarian form, lack of window openings and affinity with the countryside, in my view, present a barn-like appearance which is consistent with similar development within the wider rural area. Moreover, despite their established commercial use, the existing buildings have blended into the landscape somewhat. Similarly, although the leylandii trees and hedges within the site are non-native in species, they further limit the views of built form on the site and contribute to a verdant character. Thus, the existing site is consistent with the landscape character of the AONB, albeit it makes only a minimal contribution to its overall character.
14. I accept that the proposed development has been designed with some sensitivity to vernacular building forms, materials and detailing. However, the inclusion of multiple dwellings in parts of the site that do not currently feature built form, to the north, would appear out of keeping with the prevailing pattern of development within the surrounding area. The presence of development in this location, irrespective of the scattered nature of Well Hill, would have a negative impact on the largely open part of the site, intensifying its use from rural to almost suburban in character. This would be exacerbated by the removal of the existing mature trees which run along the access road to the site. Any proposed replacement landscaping here would take a significant period of time to provide a similar level of cover. Consequently, the proposed development would have a harmful effect on the open and rural character of the area.
15. I accept that the proposed reduction in ground levels, combined with the proposed height of the dwellings across the site more broadly would mean that there would be no overall increase in ridge levels when combined with the existing buildings, as set out within the LVIA. Nevertheless, this does not overcome or outweigh the harm identified above.
16. Overall, I conclude that the proposed development would fail to conserve the character and appearance of the area, contrary to the relevant provisions of Policies SP1 and LO8 of the Sevenoaks District Council Core Strategy (CS, 2011) and Policies EN1 and EN5 of the Sevenoaks District Council Allocations

and Development Management Plan (ADMP, 2015). These policies, when taken as a whole, seek to ensure that the open countryside and AONB are protected from inappropriate development. This is consistent with the objectives of the Framework in so far as design and the natural environment is concerned.

Biodiversity and protected species

17. Two ecological reports were submitted in support of the appeal. The latest of these, dated July 2021, is the Preliminary Ecological Appraisal produced by CSA Environmental (the Appraisal). This identifies key ecological conditions and the potential for habitats of protected species. The Appraisal sets out the conclusions of surveys that were conducted for bats and Great Crested Newts (GCNs), both of which were identified as necessary within an initial (2019) Appraisal.
18. The potential for suitable habitats for GCN was concluded as 'presumed absent', however the assessment clearly sets out that there were some limitations to the surveying of nearby ponds due to access permission issues. Although GCNs were consequently scoped out of the Appraisal, there remains a possibility of their presence. The Planning Practice Guidance indicates that where a significant impact could arise, ecological surveys should be carried out in advance of an application being made. Without clarification for all identified potential habitat sites, including those which could not be accessed at the time of survey work, it is not possible to satisfactorily demonstrate that the proposed development would have an acceptable effect on the protected species or that it could meet the requirements of LP policies in this respect.
19. An emergence survey was carried out to identify the potential for bat roosts at the site with the conclusion that bats are likely absent from the site. I have no reason to disagree with those findings.
20. From the information before me, there is insufficient evidence to demonstrate that the proposal would have an acceptable effect on biodiversity, in particular the protected species of GCN, contrary to the relevant provisions of CS Policy SP11. This policy, in summary, promotes the conservation and opportunities for the enhancement of biodiversity. This is in a similar vein to the objectives of paragraph 174.d of the Framework which states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.

Other effects

21. The proposed development would provide one affordable housing unit on-site. The Council, in its officer report, explained that the provision of a financial contribution would be preferred on the basis that an affordable housing provider would unlikely wish to take on a single dwelling. Without the submission of a unilateral undertaking, there is no ability to secure such an obligation.
22. Instead, a financial appraisal has been provided in support of the appeal which sets out the marginal profitability of the scheme and that the affordable housing requirement should be waived. The Council has not responded on this matter. Even were I to accept that no affordable housing contribution be provided, this would not overcome or outweigh the harm identified in respect of

inappropriate development on the Green Belt, character and appearance or biodiversity and protected species.

23. I note the appellant's reference to pre-application advice given. I also note the appellant's comment in respect of communication with the Council and that negotiations have proceeded by means of repeated applications. Nevertheless, I have assessed the scheme on its planning merits and have identified harm, as explained above.

Other considerations

24. The appellant contends that proposed landscaping and the removal of areas of hardstanding would give a softer and more natural appearance. However, the general enhancement of the site, including through increased planting and landscaping, could happen without the wider redevelopment of the site. In any case, as identified above, the hardstanding itself is not a prominent feature. I therefore afford this consideration minimal weight.
25. My attention has been drawn to an allowed appeal at Hanns Hall Livery¹ in the Council area of Cheshire West and Chester. That proposal sought the construction of 6 self-build plots on a previously developed site within the Green Belt. However, that case is not directly comparable to the appeal before me, not least due to the site's different geographical location. Moreover, that appeal was in outline, with appearance, scale and landscaping forming reserved matters, unlike the appeal before me. In any event, I have found that this particular appeal proposal is inappropriate development in the Green Belt, which is harmful by definition, and it would cause harm to its openness. As such, I attribute little weight to this other decision.
26. I acknowledge that the proposal would provide certain benefits. This includes the provision of 9 extra homes in the district, as well as economic benefits through the provision of employment during construction and the bringing about of additional trade to local businesses following occupation. I also note the frustration of local residents as a result of damage to property from vehicles accessing the existing site. Nevertheless, these benefits have not been quantified by the appellant and are likely to be limited given the scale of the appeal proposal. Each of these benefits attracts moderate weight in favour of the appeal proposal.
27. Letters of support for the proposed development are noted. However, these raise matters already considered above and therefore attract limited weight in favour of the appeal proposal.
28. Sevenoaks District Council cannot presently demonstrate a five year land supply of deliverable housing sites. 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 and AONBs, provide a clear reason for refusing the development. That is a matter I address subsequently.

¹ APP/A0665/W/19/3232921

Green Belt Balance and Conclusion

29. The proposed development would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
30. I have found that the proposal would provide some social and localised economic benefits, which weigh in favour of the appeal proposal. I have also noted some public support and another appeal decision, to which I attach limited weight.
31. The demonstration of very special circumstances is an extremely high policy bar to cross. Overall, I conclude that the collective totality of the other considerations of this particular case do not clearly outweigh the harm to the Green Belt which I have identified. Therefore, the very special circumstances required to justify the grant of planning permission do not exist.
32. By extension, Green Belt policy provides a clear reason for refusal within the terms of Framework paragraph 11.d and consequently no other material considerations in favour of the scheme justify allowing the appeal. I therefore conclude that the appeal should be dismissed.

A Price

INSPECTOR