



Appeal Decision

Site visit made on 28 February 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2023

Appeal Ref: APP/M3645/W/22/3292482

The Warren, Church Road, Woldingham CR3 7JH

- 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 Mrs Kate Bigwood against the decision of Tandridge District Council.
 - The application Ref TA/2021/9, dated 30 December 2020, was refused by notice dated 30 September 2021.
 - The development proposed is demolition of The Warren and proposed development to deliver nine new dwellinghouses and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice lists the drawings considered by them when determining the application. These included drawing no. 2226/301/A. I have been provided with a copy of this drawing, as well as a later revision numbered 2226/301/B. Both versions detail substantially the same proposed site layout, however no clear evidence has been provided to itemise any minor amendments included on the later version. Since I cannot be certain that all interested parties have had a full opportunity to consider any changes included on revision B, I have based my consideration of the appeal on revision A, which was the relevant drawing at the date of the Council's decision.
3. The decision notice also lists drawing no. 2226/300, with no revision number. I have been provided with a copy of revision C of this drawing, which details the floor plans as proposed. Both main parties have confirmed to me that revision C was before the Council at the date of their decision, notwithstanding the omission of a revision number on the decision notice. I have therefore had regard to drawing 2226/300/C, alongside the other drawings which were considered by the Council.
4. My attention has been drawn to various policies in the submission version of the emerging Tandridge District Council Local Plan 'Our Local Plan: 2033', which was submitted for examination in public in January 2019. However, the reasons for refusal do not identify any specific conflict with these emerging policies and I have been given limited evidence as to their current status or the expected date of adoption. I have therefore given the emerging Local Plan limited weight in my consideration of this appeal. However, I have had regard to points raised regarding its ongoing examination in public, to the extent that they are relevant to the issues before me.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, including its effect on openness,
- the effect on the character and appearance of the area, and
- if the proposal is inappropriate, 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

Inappropriate development including effect on openness

6. The appeal site comprises a large detached dwelling in a mature garden on a wooded hillside. The dwelling is vacant and dilapidated and the grounds are somewhat overgrown. However, there are areas of open land which appear to have been formal gardens, as well as extensive mature trees in front of the dwelling and along the driveway. There are also more informal wooded areas on the hillside, where it slopes down towards the west. A neighbouring dwelling (Warren Cottage) is accessed through the site.
7. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt. It goes on to set out a number of exceptions, two of which are relevant to the proposed development. Paragraph 149d allows for the replacement of an existing building, provided the new building is in the same use and not materially larger than the one it replaces. Paragraph 149g allows for the partial or complete redevelopment of previously developed land where this would not have a greater impact on the openness of the Green Belt than the existing development. Policies DP10 and DP13 of the Part 2 Local Plan¹ reflect the contents of paragraph 149, to the extent that they are relevant to this appeal.
8. Framework Paragraph 149g allows for a greater level of harm to openness where a proposed development would contribute to meeting an identified affordable housing need within the area of the local planning authority. I have had regard to the evidence that the proposal would provide what is described as 'more affordable' homes, with an aspiration to deliver these at 'sub-market prices'. However, no legal mechanism is before me to secure the delivery of affordable housing compliant with the definition in Annex 2 of the Framework. Therefore, when considering the effect on openness, it is the first bullet point within paragraph 149g which applies.
9. Turning first to paragraph 149d, based on dimensions given on the plans and in the Council's evidence, the gross internal area of the proposed dwellings would be approximately 40% greater than that of the existing dwelling. No alternative figure has been proposed. That is clearly a material increase in floorspace. The proposal would also introduce additional building mass in various locations, notably a detached building providing two dwellings to the rear, a detached

¹ Tandridge Local Plan: Part 2 – Detailed Policies adopted 2014

cycle store and more substantial single storey elements to both sides of the main building. I therefore find that the proposal would not fall within the exception in paragraph 149d, since it would be materially larger than the existing building which it would replace.

10. Framework paragraph 149g is less prescriptive in terms of direct comparison between existing and proposed buildings. Instead, it allows for redevelopment of previously developed land where it would not have a greater impact on the openness of the Green Belt than the existing development.
11. My attention has been drawn to the extensive planning history of the site, particularly planning permission TA/2015/79, approved in September 2017. While I have had regard to the planning history (and return to the issue of the fallback position below), I observed during my site visit that the existing dwelling remains substantially as it was in 2009, when drawing no. 2226/45/B² was prepared. Apart from the partially erected blockwork walls of what appears to be an abortive extension to one side, the existing dwelling corresponds with the details on that drawing.
12. The central element of the larger proposed building would have similar proportions to the existing dwelling, providing two storey accommodation with additional floorspace in a fully hipped roof. The existing building also has a single storey range to one side, which is echoed in the proposed design, albeit in a different form. However, the proposed development would introduce a further single storey range to the opposite side (flat 2), together with a separate pair of dwellings at the rear, on land which is currently laid to grass. There would also be a detached cycle store in the grounds, in a position where there is no existing building. These additional built elements would increase the effect on openness, by extending the footprint and bulk of built development on the site, including into currently open areas of garden.
13. The proposal would also introduce a more extensive area of car parking, to cater for the additional demands of nine independent dwellings. While this would be in an area with existing tree cover, it would nevertheless increase the extent of hardstanding and parked vehicles. This would further undermine openness.
14. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The increase in building mass, hardstanding and parked vehicles would be harmful to openness in spatial terms. In visual terms, the impact on openness would be mitigated by the degree of mature tree screening, which largely obstructs public views into the site. The proposed development, including the car parking, would be visible from neighbouring properties, notably Warren Cottage. However, these are private viewpoints and therefore the degree of public harm would be limited.
15. In summary, the proposal would be materially larger than the existing building. It would also have a greater impact on the openness of the Green Belt than the existing development on the site. The loss of openness would be mitigated by the limited degree of public visibility. Nevertheless, there would be a moderate level of harm to openness in spatial terms. As a result, the proposed development does not fall within the exceptions in Paragraph 149 of the

² Appellant's Statement of Case, Appendix 20

Framework. I therefore conclude that the proposal would be inappropriate development in the Green Belt.

16. For the same reasons, the proposal would conflict with Policies DP10 and DP13 of the Part 2 Local Plan, which amongst other things define the construction of new buildings as inappropriate in the Green Belt, reflecting the tests in the Framework for consideration of replacement buildings and redevelopment of previously developed sites.

Character and appearance

17. The appeal site is in an enclave of large detached houses in mature gardens, spread out along Church Road. Dwellings stand in spacious grounds with extensive mature planting. Their gardens are interspersed with areas of woodland, giving the area a sylvan character in which buildings are generally subservient to their extensive landscaped and wooded garden settings. The spacious, sylvan character of Woldingham and its setting is highlighted as a characteristic of the area in Policy L1 of the Woldingham Neighbourhood Plan adopted April 2016 (WNP).
18. The degree of spaciousness and mature planting gives the area a somewhat rural character. This increases as one travels along Church Road, away from the settlement and towards the appeal site. There is a sense of transition between the more developed (but still low density) areas within the settlement boundary and the open countryside beyond the appeal site.
19. As noted above, the appeal site includes extensive areas of mature tree cover, such that the proposed development would be substantially screened from public view. However, it would be more visible from the adjoining dwellings. While the design of the proposed development reflects the local vernacular, and its form echoes that of a single detached dwelling with outbuildings, the associated development and activity on the site would have a more intensive character. This would be manifested particularly in the amount of hardstanding and car parking amongst the trees, which would be a clear departure from the established character of single dwellings in mature gardens. As a result, the somewhat rural, sylvan character of the area would be eroded, albeit to a limited and localised extent.
20. I conclude that the proposed development would have a harmful effect on the character and appearance of the area. Such harm would be of a limited and localised nature. Nevertheless, the proposed development would conflict with Policy CSP18 of the Core Strategy³, Policy DP7 of the Part 2 Local Plan, Policy L1 of the WNP and relevant paragraphs in the Framework. These policies, amongst other things, require that new development reflects the character, setting and local context of the site, reinforcing and contributing to local distinctiveness.

Fallback position

21. I have had regard to the extensive planning history of the site, notably the 2017 planning permission. In March 2022, the Council granted a Certificate of Lawful Development, Ref 2021/1832, which confirms that this development has commenced and consequently planning permission TA/2015/79 remains extant.

³ Tandridge District Core Strategy adopted 2008

22. The scheme approved in 2017 proposes a large detached dwelling, of similar proportions and design to the larger of the buildings now proposed. There would also be a separate swimming pool building at the rear. When planning permission was granted, the Council took account of planning history relating to various unimplemented extensions and additions. This contributed to their conclusion that there were very special circumstances to justify what was judged in 2017 to be inappropriate development in the Green Belt.
23. Although there has been little progress on construction of the 2017 scheme, the planning permission has been implemented and remains extant. It therefore represents a potential fallback position, which should be compared with the appeal proposal.
24. No clear explanation has been provided as to why the 2017 planning permission has not been implemented in full. Given its age, and the rather convoluted and protracted planning history of the site before and since 2017, there is limited evidence of any genuine intention to proceed with construction of the permitted scheme. Nevertheless, I accept that this is at least a theoretical possibility.
25. The 2017 planning permission differs in a number of respects from the current proposal. Since it was for a single dwelling, there would have been a much more modest requirement for car parking and other facilities within the curtilage. In particular, there would be no need to create additional hardstanding and parking areas among the trees, which I have highlighted as having an adverse effect on openness. Other development within the curtilage, such as the cycle store, would not have been required on the same scale.
26. In addition, the detached pool building permitted in 2017 would have been a more low-key structure, with shallow apex roof. It would have been clearly subservient in scale, appearance and function to the main dwelling. The detached pair of dwellings now proposed in the same location would have a more complex, steeply pitched roof, giving the building a bulkier form. It would also have a more clearly separate identity, providing two separate and self-contained dwellings occupied independently of the main building. The introduction of this somewhat bulkier building, capable of independent occupation, would have an increased effect on openness in spatial terms.
27. As a result of these additional elements, the development now proposed would be more harmful to openness than the development permitted in 2017. As such, even if the 2017 proposal is implemented in full, this would be less harmful to the openness of the Green Belt. On that basis, I have given the fallback position limited weight.

Other considerations

28. It is common ground that the Council cannot demonstrate a five year housing land supply, although no specific figures have been provided for the current housing land supply position. A record of under-delivery against housing delivery targets is also highlighted in the appellant's evidence.
29. I have noted evidence regarding the examining Inspector's comments on the emerging Local Plan, including letters highlighting an undersupply of housing, uncertainty about housing delivery and deteriorating affordability. While I have given the emerging Local Plan limited weight, for the reasons explained above,

I have had regard to this underlying context when considering the benefits of the proposal for the supply of housing. I have also had regard to evidence regarding the ongoing and somewhat protracted examination in public, and consequent uncertainty as to when the shortfall will be resolved.

30. The proposal would provide a net increase of eight residential units, comprising nine relatively modest dwellings in place of the existing large detached house. As explained above, while the proposed dwellings are described as 'more affordable', there is no indication that they would comprise affordable housing as defined in the Framework. Nevertheless, they would increase the supply of smaller homes, suitable for a range of potential occupiers and the Council's Officer Report acknowledges that the housing mix would be acceptable.
31. The site's location on the rural fringes of the settlement does not provide a particularly high standard of accessibility to local services, which are themselves limited. While public transport is available nearby, access on foot would be along unlit rural lanes and public rights of way. Services in the centre of Woldingham are likewise some distance along rural lanes without pavements. Cycling would be feasible, but a degree of car dependency is likely. The development would therefore feel somewhat remote from local services, compromising its suitability for a wide range of residents, including older people seeking to downsize.
32. Nevertheless, in the context of the housing land supply and affordability evidence, I find that the delivery of nine relatively modest dwellings would be a benefit of the proposal, to which I attribute moderate weight.
33. The development would make use of previously developed land. The appellant indicates that the dwellings could now be delivered quickly, notwithstanding the protracted period of vacancy to date. There would be economic benefits, including revenue to the Council and support for local employment and services. However, given the relatively small increase in dwellings and my observations regarding the accessibility of local services, the development's contribution to the economy and community vitality of Woldingham is likely to be modest.
34. There is opportunity for biodiversity net gain, to be delivered through landscaping conditions. However, little information is provided about the scale of net gain or the extent to which it would exceed policy requirements. Energy efficiency improvements are also proposed, as well as renewable energy generation on site. However, the associated benefits to mitigation of climate change are tempered by the proposed demolition of a substantial existing building and associated demand for new materials and energy consumption in the construction process.
35. Absence of identified harm in relation to access and parking arrangements, living conditions, the availability of private amenity space, refuse, drainage or the effect on existing trees are all neutral factors which weigh neither for nor against the proposal.

Green Belt balance

36. The proposal would be inappropriate development in the Green Belt as defined in the Framework. Inappropriate development is harmful by definition and there would be harm to openness, albeit to a moderate extent. There would be

further harm to the character and appearance of the area, of a limited and localised extent.

37. Framework paragraph 148 requires that the harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal be given substantial weight. While I have given moderate weight to the contribution to housing land supply, the other benefits of the proposal are relatively modest and I therefore give them collectively limited weight. I have likewise attributed limited weight to the fallback position, having concluded that it would be less harmful to the Green Belt.
38. Taken together, these considerations would not outweigh the harm to the Green Belt, to which I have given substantial weight. Therefore, the harm to the Green Belt is not clearly outweighed by other considerations. On that basis, the very special circumstances necessary to justify the proposal do not exist.

Other Matters

39. By virtue of the shortfall in housing land supply, the development plan policies which are most important for determining the application are deemed to be out of date. As a result, the proposed development falls to be considered against Framework paragraph 11, which articulates a presumption in favour of sustainable development.
40. In these circumstances, Paragraph 11d(i) makes clear that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Framework Footnote 7 makes clear that the policies in question include land designated as Green Belt.
41. Having concluded that the proposed development would be inappropriate development in the Green Belt, and that the very special circumstances necessary to justify the proposal do not exist, there is a clear reason for refusing the development proposed, based on relevant policies in the Framework. On that basis, it is not necessary for me to consider further whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, since this test set out in paragraph 11d(ii) of the Framework is not applicable in this case.

Conclusion

42. For the reasons set out above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR