



Appeal Decision

Site visit made on 15 May 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 MAY 2023

Appeal Ref: APP/M3645/W/22/3312904

Land at The Haywain, Oxted RH8 9LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Richard Hayward against the decision of Tandridge District Council.
 - The application Ref TA/2021/407, dated 2 March 2021, was refused by notice dated 10 June 2022.
 - The development proposed is 1 to 2 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Permission in principle is another way of obtaining planning permission for housing-led development. It has 2 stages: the first stage (permission in principle) establishes whether a site is suitable in-principle, and the second stage (technical details consent) is when the detailed development proposals are assessed which may lead to planning permission being granted. The scope of permission in principle is limited to location, land use and the amount of development. All other matters would be considered as part of a subsequent technical details consent application if permission in principle is granted. This proposal and appeal relate to the first of these stages, permission in principle.

Background

3. A sliver of the appeal site is in the defined built-up area of Oxted town and not in the Green Belt (the non-GB part). Most of the appeal site is outside of Oxted and in the Green Belt (the GB part).

Main Issues

4. The main issues are:
 - whether the proposal would be acceptable in terms of its location, land use and amount of development, including whether it would be inappropriate development in the Green Belt having regard to local and national planning policy, and its effect on the character and appearance of the area; and
 - whether any harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations to amount to very special circumstances required to justify development in the Green Belt.

Reasons

Planning policy

5. Policy CSP1 of the Tandridge District Core Strategy, October 2008 (the CS) directs new development to sustainable locations within defined built-up areas, including Oxted. Together with Policy DP10(A) of the Tandridge Local Plan Part 2, July 2014 (the LP) it also seeks to maintain the extent of the Green Belt. Additionally, LP Policies DP10(B) and DP13 set out that the construction of new buildings is inappropriate development in the Green Belt and will normally be refused; permitted only where very special circumstances exist.
6. In these respects, these policies are broadly consistent with objectives of the National Planning Policy Framework (the Framework) for using suitable windfall sites within existing settlements for new homes. Also, to protect Green Belt land by, amongst other things, regarding the construction of a new building as inappropriate development in the Green Belt.
7. LP Policy DP13(I) applies national Green Belt policy such that development listed under 'paragraph 90 of the NPPF' is potentially an exception to inappropriate development in the Green Belt. That paragraph and previous version of the Framework¹ did not refer to the exception at (e) for material changes in the use of land in the equivalent current Framework paragraph 150, which is not a closed list of uses. Nor do the extracts of the Council's development plan policies before me.

Whether inappropriate development

8. The appeal site is a large, broadly rectangular shaped parcel of undeveloped land with boundary trees and hedgerow. Some internal trees have been removed and groundcover vegetation cut down or reduced in height. It is innately 'open'.
9. The appellant's final comments include an indicative layout plan for one dwelling and a residential curtilage on the non-GB part of the site. This development (or even two dwellings on this part of the appeal site) would not be in the Green Belt so could not be inappropriate development in the Green Belt. In principle it would therefore comply with CS Policy CSP1.
10. There is no dispute that the construction of a dwelling (or both dwellings) on the GB part of the site would be inappropriate development in the Green Belt. I agree. This would therefore conflict with CS Policy CSP1 and LP Policies DP10 and DP13.
11. The effect of development on openness is not confined to physical works but also relates to the purpose or use of land. The gardens of some dwellings next to the appeal site are in the Green Belt, but I am not aware of how or when these came into existence relative to the Green Belt.
12. Residential curtilage on the GB part of the site would likely include a formal cultivated garden or lawn regularly used in conjunction with one or both dwellings, such as for play, relaxation or entertaining with associated domestic paraphernalia. In this respect the GB part of the site would not be unchanged visually or spatially but take on a distinctly different, permanent domestic feel.

¹ Published in March 2012 (superseded)

This loss of openness would not preserve the openness of the Green Belt, which is one of its essential characteristics. Moreover, a spread of residential use and activity onto this part of the appeal site would not assist in safeguarding the countryside from encroachment, which is a purpose of the Green Belt set out in Framework paragraph 138. This would therefore conflict with CS Policy CSP1 and LP Policies DP10 and DP13 and fail to meet the requirements of paragraph 150(e). As such, it would be inappropriate development in the Green Belt.

Character and appearance

13. The appeal site is in a wide swathe of lower lying verdant and sylvan land between the opposing rear elevations of dwellings in The Haywain cul-de-sac and Peter Avenue to the east (on this edge of Oxted) and dwellings in Meadowbrook cul-de-sac to the west (on this edge of Old Oxted) in the countryside. Much of this land is part of rear gardens and share common boundaries, including on all sides of the appeal site. This gives a mostly tranquil, semi-rural feel and glimpsed intervisibility between these dwellings. The appeal site therefore makes a positive contribution to these distinctive features of the area.
14. Using part of the appeal site as a garden(s) would not in principle be incompatible with maintaining the largely undeveloped, landscaped nature of this buffer separating this built form. A dwelling sited as shown in the indicative layout plan, and even one next to it, would extend the row of dwellings in The Haywain which lie to the south.
15. However, even if it were possible to satisfactorily site one or two dwellings on this most steeply sloping and undulating part of the appeal site (including suitable vehicular means of access) this built form would project significantly behind the rear building line of other dwellings in The Haywain to the east. It would also occupy a more discrete tandem or backland position in relation to other dwellings in Peter Avenue and Meadowbrook, as would any dwelling sited further west in-depth on the lower, flatter part of the appeal site. Such development would then be set back behind and out of kilter with the row of dwellings to the south.
16. As a result, 1 or 2 dwellings on the appeal site would be at odds with the prevailing pattern and layout of nearby residential development and significantly erode the integrity of this pocket and wider corridor of mostly undeveloped land. It would also unduly consolidate development in this location as an unsympathetic piecemeal extension of Oxted merging towards Old Oxted. The absence of greater public visibility would not overcome intrinsic adverse impact in these regards.
17. Accordingly, the proposal would cause harm to the character and appearance of the area. Consequently, it would not comply with CS Policy CSP1 which seeks to avoid built-up areas coalescing or another objective of this policy to protect the character of built-up areas. It would also conflict with aims of the Framework to recognise the intrinsic character and beauty of the countryside and to achieve well-designed places, including in paragraph 130 that development should be sympathetic to local character, the surrounding built environment, landscape setting and maintain a strong sense of place.

Other considerations

Provision of housing

18. The Council accepts that it cannot currently demonstrate a 5-year supply of deliverable housing sites. The appellant has referred me to a recent appeal decision where the Council had a 1.38 or 1.57-year supply and under the Housing Delivery Test (HDT) delivery was 38% of the required housing over the past three years². The Inspector found an acute deficiency and shortfall in the local housing supply and delivery, but the weight applied to this was in the context of a substantially greater proposal for 100 dwellings, 40% affordable.
19. In this current appeal, the proposal would make efficient and effective use of a small windfall site to provide 1 or 2 market dwellings in or on the edge of Oxted. This would be aligned with objectives of the Framework to significantly boost the supply of homes. Notwithstanding the extent of the housing shortfall, the social and economic benefits of constructing and occupying 1 or 2 new homes would be modest.
20. The appellant has also referred me to 'an emerging Local Plan that appears some way from adoption' so there is no local plan that 'provides any certainty of land coming forward to rectify the building deficit'. It is not clear from the evidence before me, even the recent appeal decision, when a new local plan might be adopted but examination was anticipated to be completed by December of this year. This does not change the housing land supply or delivery position meantime.

Other Matters

21. Oxted Parish Council and some local residents also objected to the proposal due to concerns about vehicular access, traffic and parking (including during construction), flooding, drainage, biodiversity and the safety, outlook or privacy of the occupiers of some existing dwellings. However, these matters would be considered at a technical details consent stage, were permission in principle granted.
22. The effect of development on alleged easements, covenants and third-party property would be private matters between the respective parties. While a fear of precedent has also been mentioned, I have determined this appeal on its individual planning merits and the evidence before me.

Green Belt Balance

23. The provision of 1 or 2 dwellings and/or residential curtilages on the GB part of the site would be inappropriate development which Framework paragraph 147 states is, by definition, harmful to the Green Belt. The limited harm to the openness of the Green Belt in this respect would nonetheless be at odds with local and national policy to protect the Green Belt. Any harm to the Green Belt is a matter that carries substantial weight. Additionally, this development would cause harm to the character and appearance of the area and this environmental consideration adds significant weight against the proposal.
24. The other considerations outlined above are, therefore, individually and cumulatively of insufficient weight to clearly outweigh the totality of the harm.

² APP/M3645/W/22/3309334 dated 11 April 2023

Consequently, very special circumstances to justify the proposal do not exist. As such, it would also conflict with LP Policies DP10(B) and DP13 and Framework paragraph 148.

Planning Balance

25. By virtue of the 5-year housing land supply or HDT position, Framework paragraph 11(d) is engaged.
26. However, in this appeal the application of policies in the Framework that protect areas of particular importance (the Green Belt) would provide a clear reason for refusing development on the GB part of the site. Accordingly, by virtue of paragraph 11(d)(i) the presumption in favour of sustainable development would not apply in that case.
27. Furthermore, the adverse impacts of development on the appeal site to the character and appearance of the area would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, by virtue of paragraph 11(d)(ii) the presumption in favour of sustainable development would not apply in that case.

Conclusion

28. Having regard to location, land use and amount of development, the proposal does not accord with the development plan taken as a whole and it conflicts with the Framework. There are no other material considerations to indicate that the decision should not be made otherwise than in accordance with the development plan.
29. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR