



Appeal Decision

Site visit made on 5 June 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2023

Appeal Ref: APP/H2265/W/22/3312356

Land opposite 163 Tonbridge Road, Little Mill, East Peckham TN12 5JR

- 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 J Hall against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/22/01090/FL, dated 17 May 2022, was refused by notice dated 20 July 2022.
 - The development proposed is erection of a detached 2-storey 3-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. As the site is in a conservation area, I have had regard to the statutory duty set out under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to be paid to the desirability of preserving or enhancing the relevant conservation area's character or appearance.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect upon flood risk;
 - The effect upon highway safety, having particular regard to the intended parking arrangements;
 - Whether or not the proposal would preserve or enhance the character or appearance of the Little Mill East Peckham Conservation Area (the CA); and
 - If the proposal would be inappropriate development, whether or not 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 necessary to justify it.

Reasons

Whether inappropriate development

4. The site falls within the Metropolitan Green Belt. The National Planning Policy Framework (July 2021) (the Framework) specifies that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless one of several stated exceptions apply. Such exceptions include: limited infilling in villages; and 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 than the existing development.
5. As regards the limited infilling in villages exception, it is the Council's case that the site cannot be reasonably considered to fall within the confines of a village. This is in-part owing to its location outside of East Peckham's designated rural service centre boundary. It has also been set out that the site is located amongst a cluster of houses, that buildings local to the site tend to be scattered and separated by sections of countryside, and that the area is not subject to significant facilities and services, such that the site does not appear as part of a cohesive settlement. This stance has not, in comprehensive or convincing terms, been challenged by the appellant. This is notwithstanding the submission of photographs of selected Little Mill buildings. Moreover, following my own inspection of the site's immediate and wider surroundings, I am suitably satisfied that the site does not comprise part of a village for the purposes of the Framework's Green Belt provisions.
6. It is common ground between the main parties that the site represents previously developed land. Indeed, the Framework's definition of such is met and the proposal would represent the limited infilling or redevelopment of previously developed land. Accordingly, before concluding whether or not the development is inappropriate, I must consider whether the proposal would have a greater impact on the openness of the Green Belt when compared to existing development at the site. This is the appropriate test where a new market dwelling is proposed, as opposed to affordable housing.
7. The site, which is predominantly grassed and experienced against an inherently green and rural backdrop, is presently clear of built development. An area of hardstanding used for vehicular parking is intended to be retained and occupies a portion of the site to its southeast part. It is proposed that a two-storey dwelling covering a considerable footprint be added to the northern part of the site. Given the proposed dwelling's intended size and visual prominence, and when considering the current makeup of the site, it is inevitable that a loss of Green Belt openness would result from the scheme. This is notwithstanding the site's position between neighbouring housing development and the scale/height comparisons that have been drawn by the appellant.
8. For the above reasons, the proposal would be inappropriate development in the Green Belt and, in this regard, it would conflict with Policy CP3 of the Tonbridge and Malling Borough Council Core Strategy (September 2007) (the CS) and the Framework in so far as these policies state that National Green Belt policy shall be applied, that inappropriate development is, by definition, harmful to the Green Belt, and that the essential characteristics of Green Belts are their openness and their permanence.

Flood risk

9. The site lies in proximity to the River Bourne. Flood Zone mapping indicates parts of the site to be at high probability of fluvial flooding, including areas falling within Flood Zones 3a and 3b. It should be noted that a more vulnerable development type, as proposed, is incompatible with Flood Zone 3b locations, and would potentially be subject to an Exception Test in areas defined as Flood Zone 3a. That said, a not insignificant portion of the site falls within the lowest risk zone - Flood Zone 1. These areas tend to be situated to the site's northern side, where the proposed building works would take place. Indeed, within the site, the appellant has, in broad terms, sought to steer built development towards areas at the lowest risk of fluvial flooding.
10. However, it remains that pockets of land classified as being at high risk would be overlain by the proposed building. In recognition of this, the appellant proposes cut and fill operations to adjust site levels and offer an equivalence in compensation volume in the areas of the site to be reduced in level. Nevertheless, the Environment Agency (the EA), in their important role as a technical and statutory consultee, has sounded concerns with respect to this intended approach. Moreover, cut and fill, to effectively secure the replotting of Flood Zones, has not been agreed in principle with the EA, and has not been supported by detailed topographical data (to conform with the EA's stated expectations) or clear compensation calculations to justify it as an effective and appropriate technique.
11. Therefore, notwithstanding reference to a culvert in place to the site's edge or any intended flood resistance/resilience measures to be utilised, it has not been satisfactorily demonstrated that the development would be safe for its lifetime taking account of the vulnerability of its users, nor that flood risk would not be increased elsewhere (including on neighbouring sites). Moreover, it has not been robustly substantiated that the proposal should be thought of as Flood Zone 1 development.
12. I also note that a large proportion of the proposed dwelling's external areas would fall within Flood Zone 3b. This includes its access drive. As such, with the site's existing point of access and perimeter boundary treatments intended to be retained, the availability of safe access to and egress from the site in the circumstances of a flood event has not been clearly or satisfactorily demonstrated. The potential for an evacuation plan or flood warning scheme to be signed up to by future occupiers does not alter my assessments in this regard.
13. For the above reasons, in the absence of satisfactory evidence to justify otherwise, the development would have an unacceptable effect upon flood risk and thus cause harm. The scheme conflicts with Policy CP10 of the CS and the Framework in so far as these policies require that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

Highway safety – parking

14. The proposal involves the relocation of existing parking (that serves Bourne House) from the appeal site to the side of Bourne House in a tandem formation. This would be made possible by the removal of an existing single garage addition. The appellant has suggested that the garage's removal would

allow access to parking spaces to be situated behind Bourne House that I understand were the subject of a previous lawful development application. However, in the interests of ensuring that no one with a potential interest in the outcome of the appeal is prejudiced, it is important that I determine the proposal based on the submitted plans before me. I note that it would not be appropriate to potentially impose a planning condition that could entail a fundamental change to the position of intended parking spaces.

15. Preferred sizes for parking bays are indicated in the Kent Vehicle Parking Standards Supplementary Planning Guidance (July 2006). The standard preferred bay size for a car is 5 metres in length and 2.5 metres in width, with this preferred width increasing to 2.7 metres for end spaces abutting an enclosed boundary. The Council consider that the proposed tandem spaces would not meet the size requirements as set out in adopted parking standards and thus should not be thought of as useable spaces. The appellant has not contended a position otherwise and following my own inspection of the area to the side of Bourne House, I have no reason to disagree with the Council.
16. The Kent Design Guide Review Interim Guidance Note 3 – Residential Parking guidance (November 2008) suggests that, in rural locations, two independently accessible spaces should serve a 3-bedroom dwelling. Whilst there may well exist the potential to explore alternatives to positioning parking to the immediate side of Bourne House, the proposal that is before me, which has not suitably demonstrated the provision of fully useable and independently accessible on-site spaces, would be likely to encourage on-street parking and thus potential obstructions on the public highway. This is in a location where Tonbridge Road, a seemingly well-used route, is of somewhat limited width and bending alignment so as to restrict available visibility.
17. Therefore, having particular regard to the intended parking arrangements and notwithstanding the lack of any objection from the Highway Authority, the proposal would be likely to have an adverse effect upon highway safety and thus cause harm. The scheme conflicts with Policy SQ8 of the Managing Development and the Environment Development Plan Document (April 2010) (the DPD) and the Framework in so far as these policies require development proposals to comply with parking standards and to not have an unacceptable impact on highway safety.

The CA

18. The significance and special interest of the CA as a designated heritage asset is drawn, in-part, from its abundance of green features and the often open nature of its fringes and wider surroundings which promote that the CA's rural origins are easily interpreted. This significance and special interest is further underpinned by the undulating presence of the River Bourne and a diverse range of historic buildings. The site, through being clear of built development, offers a sense of space and a clear connection to the CA's wider verdant rural surroundings. As such, it makes a positive contribution to the designated asset's character and appearance.
19. In broad terms, whilst the largest front-facing window would benefit from a reduction in size to better complement the designs of other proposed road-fronting openings, the intended material palette, architectural detailing and fenestration of the property raises no significant concerns. This is especially when considering the variations and modern influences that exist elsewhere

within the CA and near to the site. However, although development of slightly lower height is proposed when compared to a neighbouring terrace of properties to the north, it remains that a new two-storey dwelling of considerable footprint, depth and scale would be introduced to a prominent open site within the CA that exhibits clear verdant and rural influences.

20. The dwelling would be readily visible from a range of publicly accessible vantage points along Tonbridge Road. As such, notwithstanding its intended position adjacent to the site's northern boundary, the development would noticeably erode the site's spaciousness and rural character. This is especially when factoring in the increased levels of domestic paraphernalia that would realistically be anticipated in association with the addition of a dwelling to the land. The proposal, considered in overall terms, would have an unacceptable domesticating and urbanising influence, including upon available views through the site and thus out over the wider open countryside.
21. For the avoidance of doubt, the proposal would not result in any material improvement upon how an adjacent bungalow to the south of the site would be viewed or experienced. As a further point of clarity, the intended removal of a subservient modern garage to the side of Bourne House would have a neutral effect upon the CA's character and appearance.
22. For the above reasons, the proposal, considered as a whole, would fail to preserve the character or appearance of the CA and thus cause harm to its heritage significance. The scheme conflicts with Policy CP24 of the CS and Policy SQ1 of the DPD in so far as these policies require that all new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its historical and architectural interest. In the terms of the Framework, I would qualify that the degree of harm to the CA as a designated heritage asset would be less than substantial. Paragraph 202 of the Framework requires less than substantial harm to be outweighed by public benefits.
23. In terms of public benefits, the proposal involves the creation of one additional unit of housing. This is within a Borough where I understand the latest published position of the Council to be a 3.22-year supply of deliverable housing sites, a significant shortfall when compared to the minimum five-year supply threshold endorsed by the Framework. In such circumstances, especially when factoring in a recent record of under-delivery in the Borough, one additional dwelling would make an important contribution to the supply-deficit and attract meaningful weight as a scheme benefit.
24. The development would also create jobs during the construction phase and would, most particularly once occupied, provide support to the local economy and local community facilities. These benefits attract limited weight due to the modest quantum of development under consideration.
25. The benefits associated with the scheme would be relatively modest, even when considered in cumulative terms. This leads me to conclude that, in the circumstances of this case, the public benefits would not outweigh the less than substantial harm that I have identified would be caused to the heritage significance of the CA.

Other matters

26. The appellant has referred to examples of similar developments granted planning permission in the locality and has provided the relevant decision notices. However, limited commentary or supporting information has been provided to assist me in potentially drawing direct parallels between these other schemes and the appeal proposal. Moreover, it has not been clearly demonstrated that the same Green Belt, conservation area and flood risk constraints applied to the development proposals elsewhere, nor that any of the individual site circumstances elsewhere are directly comparable to those that avail at the appeal site. As such, the other decisions provided are of limited relevance to my considerations.

Whether very special circumstances apply

27. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework also indicates that substantial weight should be given to any harm identified to the Green Belt.
28. As set out in my reasoning related to the CA, the proposal's public benefits (considered cumulatively and including the delivery of an additional unit of housing) would be relatively modest. These benefits would not outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness), and the additional identified harms in the contexts of flood risk, highway safety, and the CA's character and appearance/heritage significance.
29. For the avoidance of doubt, as the application of the Framework's policies that protect areas or assets of particular importance provides clear reasons for refusing the development proposed, the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is not engaged. The scheme conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

30. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR