



Appeal Decision

Site visit made on 20 March 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th June 2023

Appeal Ref: APP/G2245/W/22/3297714

Perran, Charles Road, Badgers Mount TN14 7BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr N De Palma against the decision of Sevenoaks District Council.
 - The application Ref 21/04242/OUT, dated 30 December 2021, was refused by notice dated 23 February 2022.
 - The development proposed is for the creation of an infill plot and the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been submitted by the appellant against Sevenoaks District Council and this is the subject of a separate decision.

Procedural Matters

3. The planning application was for outline planning permission with all matters reserved.
4. Although the appellant has submitted a drawing (titled 'Scheme Drawing') showing a site layout, including the point of vehicular access and a diagrammatic street scene elevation, the planning application form is clear that outline planning permission with all matters reserved is sought. The access, appearance, layout, scale and landscaping (the reserved matters) of the proposed development are reserved for consideration at a later stage. I have therefore treated this drawing as for illustrative purposes only.

Main Issues

5. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2021 (the Framework) and any relevant development plan policies and guidance.
 - The effect of the development on the openness of the Green Belt.
 - If the proposal is inappropriate development, 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 proposal.

Reasons

Whether inappropriate development

6. Paragraph 149 of the Framework, states that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. These exceptions include "*limited infilling in villages*" (Paragraph 149, criterion e).
7. Although outside the defined boundary of Badgers Mount, the parties agree that the appeal site lies within the village for the purposes of the Framework. This also reflects the judgement in *Julian Wood v SSCLG & Gravesham Borough Council* [2015] EWCA Civ 195. I see no reason to disagree. Therefore, the issue is whether the proposed development constitutes limited infilling within the village.
8. The Framework does not provide a definition of infilling. However, limited infill development within the Green Belt is defined by the Sevenoaks District Council Local Plan Supplementary Planning Document: Development in the Green Belt (2015) (the SPD), as "*the completion of an otherwise substantially built up frontage by the filling of a narrow gap normally capable of taking one or two dwellings only*" (paragraph 3.3). Furthermore, the SPD defines a substantially built up frontage as "*an otherwise continuous and largely uninterrupted built frontage of several dwellings visible within the street scene*" (paragraph 3.4).
9. The purpose of the SPD is to provide detailed guidance on the Council's approach to applying the Framework's exception to infilling in the Green Belt within its area, and to ensure consistency in decision making when determining planning applications. Since adoption of the SPD, the Framework has been updated. However, that part relating to exceptions to inappropriate development in the Green Belt was not altered. As a result, this would not affect the weight to be given to the SPD.
10. In my view, the SPD's definition of infilling provides further detail and guidance to the application of the Framework's term of limited infilling at a local level. In this respect, the SPD does not contradict or supersede the Framework, because the Framework does not define infilling, thus leaving space for a locally set approach. I therefore find the SPD's approach to establishing what is limited infilling to be broadly consistent with the Framework's approach to limited infilling.
11. Although the SPD has not been independently examined and does not have the full force of development plan policy, it is nonetheless a material consideration and assists in determining what would comprise limited infilling.
12. The Council has referred me to an Inspector's appeal decision in Halstead¹, in which the Inspector considered the SPD's definition of infilling to be consistent with the Framework.
13. The appellant has drawn my attention to a recent appeal decision in the District for a new dwelling in the Green Belt on a site in Seal², in which the Inspector

¹ Appeal Decision APP/G2245/W/20/3251751

² Appeal Decision APP/G2245/W/21/3271885

set out his view that the SPD could only carry limited weight in the circumstances of that particular case. However, the Inspector was clear that a judgement on infilling could only be reached on a case-by-case basis involving the assessment of a particular proposal in relation to its surrounding context. The Seal case concerned a site that was surrounded by development on all sides, including car parks and buildings, and was largely enclosed by a brick wall. It was therefore materially different in context to the site before me.

14. The appellant has also referred me to several appeal decisions for developments outside of the Council's area that were found to accord with the Framework's exception for limited infilling in villages in the Green Belt. However, given that the Council has a distinctive local approach to the definition of limited infilling set out within the SPD, those appeal decisions are of limited relevance to this case.
15. Taking account of all the above factors, I consider that the SPD is broadly consistent with the Framework's approach to infilling in the Green Belt and should be accorded considerable weight in determining the appeal before me. Furthermore, a judgement on whether the appeal proposal would constitute infilling within the SPD's definition requires an 'on the ground' assessment with reference to its surroundings and context.
16. The appeal site is accessed from a narrow unmade track, known as Charles Road, that extends from Highland Road and serves a total of 3 residential dwellings (Tanglewood, Perran and Blue Haze). These 3 dwellings are not a visual continuation of the built form of Highland Road due to the separation distance between Tanglewood and Woodside Lodge, that fronts Highland Road close to the junction with Charles Road. The dense vegetation in the garden of Woodside Lodge limits visibility between it and Tanglewood, Perran and Blue Haze.
17. Of the 3 dwellings, both Tanglewood and Perran have an appreciable presence when viewed from the track. Despite being set back on slightly different building lines, these 2 dwellings are relatively closely spaced and visible from the road. Their presence is further announced by the substantial boundary walls on the back edge of the track.
18. However, the section of track beyond the frontage of Perran, curves sharply around through some 90 degrees before continuing alongside the eastern boundary of Perran, where it forms an access track to Blue Haze and the large field to the north. Blue Haze is a relatively modest one and a half storey dwelling with an attached single storey outbuilding set back behind a hedgerow and fronting this distinct section of track on lower ground. The front elevation of Blue Haze faces the eastern boundary of Perran directly opposite. In this respect, Blue Haze is not strongly related to the same section of track frontage as that to the front of Tanglewood and Perran, and it is separated from Perran by a relatively wide gap that includes the track.
19. Furthermore, there is substantial planting and trees within the appeal site, particularly along its boundaries, which serves to largely obscure intervisibility between Blue Haze and both Perran and Tanglewood, providing a visual break between them. In views looking eastwards along the track from any point between the junction with Highland Road and the appeal site, the presence of Blue Haze is largely hidden by the substantial planting on the appeal site.

20. In this respect, Tanglewood and Perran are sufficiently closely spaced so as to form a continuous built frontage to the track. However, Blue Haze, which fronts a distinctly different part of the track, is not visually part of the same frontage. Therefore, the loose knit pattern of development and separation between those two buildings and Blue Haze, including intervening dense planting, are such that they are not seen as forming an otherwise continuous and largely uninterrupted built frontage of several dwellings visible within the street scene along the track. As such, the proposed development would not comply with the definition of limited infilling as set out within the adopted SPD.
21. I acknowledge that the information before me demonstrates that the appeal site could accommodate a single dwelling. This dwelling could be designed and laid out on the site to retain space between it and the site boundaries, thus replicating the pattern of development established by Perran and Tanglewood.
22. Both parties have referred me to an allowed appeal for an infill dwelling on land at Haresfield some 188 metres to the north of this appeal site on Badgers Road, which was found to comply with the aims of the Council's SPD.
23. I saw that the section of Badgers Road between The Cottage and Haresfield was a narrow track with substantial planting along the frontages of most properties along its length. Although the several dwellings in the same row as Haresfield are generally partially screened from one another by planting between plots and along the roadside, they nonetheless each have a presence in the street scene and are set in a broadly regular pattern as one travels along the Road. As such, these properties are seen as a visual continuation of the built form of Badgers Road, extending outwards from the main core of the village.
24. In contrast, fewer dwellings front Charles Road than do Badgers Road. The 3 dwellings along Charles Road (Tanglewood, Perran and Blue Haze), despite being within the village, do not read as a visual continuation of the row of properties along Highland Road, given the gap from Woodlands Lodge and the planting in between. Instead, they read as a loosely knit group of 3 buildings, which are interrupted by the presence of the access track that runs through the relatively wide gap between the frontage of Blue Haze and the side boundary of Perran. There is very limited intervisibility between Blue Haze and both Perran and Tanglewood.
25. The respective development plots in this case and the Haresfield appeal are broadly comparable in size and shape. However, given the extent of the differences that I have identified between the contexts of the two appeal sites, the Haresfield appeal has limited relevance to my considerations, and it does not alter my finding on the issue of infilling.
26. In taking account of all the above considerations, I find that the proposed development would not constitute limited infilling in the Green Belt. It does not fall within the exceptions to inappropriate development in paragraph 149 of the Framework. As a result, it would comprise inappropriate development in the Green Belt.
27. Paragraph 148 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm to the Green Belt.

Openness

28. Compared to the existing small outbuildings on the appeal site, the erection of a proposed dwelling of a scale and layout that would reflect the development in the area would represent a substantial increase in the amount of built form on the appeal site. The creation of a vehicle access and driveway for parking would also represent a more intensive use of the site. This would result in harm to the openness of the appeal site in spatial terms.
29. Whilst the site boundaries are densely planted and likely to provide a good level of screening of a dwelling, particularly in longer distance views, and there is dense woodland to the south of the site, I nonetheless find that the erection of a dwelling on the appeal site would visually affect the openness of the Green Belt.
30. The proposal would therefore have a greater impact on the openness of the Green Belt than the existing development. As set out in the Framework, I give substantial weight to the loss of openness to the Green Belt that would be caused by the proposal.
31. The parties agree that the appeal site is previously developed land and it is occupied by some small outbuildings. Nevertheless, I have found that the proposed development would not constitute limited infilling and that its impact on the openness of the Green Belt would be greater than that of the existing development. As such, even if previously development land, it would not meet the exception in criteria g) of Paragraph 149 of the Framework for: *"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..."*.

Other considerations

32. Policy LO7 of the Sevenoaks Local Development Framework Core Strategy Development Plan Document (Adopted 2011) (CS) relates to development in rural settlements. Badgers Mount falls within the definition at paragraph 4.5.9 of the supporting text to Policy LO7 of the CS, of a small village or hamlet where development is limited to small scale infilling only. My attention has not been drawn to other development plan policies and, as a result, I consider the development would not conflict with the development plan.
33. I acknowledge that no objections to the application were raised by consultees on matters including the living conditions of neighbouring occupiers, trees, biodiversity, highway safety, flood risk and drainage. The Council consider that the proposal would not harm the character or appearance of the area or the Kent Downs Area of Outstanding Natural Beauty (AONB). Whilst it would not harm the landscape and scenic beauty of the AONB, it would not both conserve and enhance it. An absence of harm does not carry positive weight in favour of the proposal.
34. I find that biodiversity enhancements, which could be secured by condition, carry limited weight in favour of the proposal given its small scale.
35. The proposal would make a small contribution to housing supply in an area which does not currently have a five year supply of housing. It would also deliver social benefits through providing a home for a household and economic

benefits associated with the construction and occupation of the dwelling. However, given that there would be a net addition of one dwelling these benefits carry limited weight.

Green Belt balance

36. The proposal would harm the openness of the Green Belt. It would not fall within the exceptions to inappropriate development set out at paragraph 149 of the Framework. As such it would constitute inappropriate development. The Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
37. There would be biodiversity enhancements from the proposed development and the dwelling would contribute to the supply of housing. However, the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations, either individually or cumulatively, sufficient to demonstrate very special circumstances. Therefore, the proposed development is contrary to the Framework that seeks to protect the Green Belt from inappropriate development.

Conclusion

38. Paragraph 11 of the Framework states that, where there are no relevant development plan policies, permission should be granted unless the application of policies in the Framework that protect areas of particular importance, such as the Green Belt, provide a clear reason for refusing the development proposed.
39. For the reasons given above, the proposal conflicts with the Framework's policy for the protection of the Green Belt. Having regard to all matters raised, there are no other considerations that would outweigh the identified conflict. I therefore conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR