



Appeal Decision

Site visit made on 20 June 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2023

Appeal Ref: APP/P1940/W/22/3313385

Greenways, Seabrook Road, Kings Langley WD4 9AS

- 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 Verity Bye against the decision of Three Rivers District Council.
 - The application Ref 22/1817/FUL, dated 29 September 2022, was refused by notice dated 2 December 2022.
 - The development proposed is the erection of a single storey, three bedroom house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposed development on the openness of the Green Belt;
 - whether the proposed development would make adequate provisions for affordable housing; and
 - if the proposed development is inappropriate, 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

Inappropriate development

3. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to several exceptions as set out in paragraph 149. One such exception is 'limited infilling in villages'.
4. Policy CP11 of the Local Development Framework Core Strategy (the Core Strategy) stipulates that there will be a general presumption against inappropriate development that would not preserve the openness of the Green

Belt, or which would conflict with the purpose of including land within it. Additionally, Policy DM2 of the Local Plan Development Management Policies Local Development Document (the Local Plan) reiterates the content of the Framework, confirming that the construction of new buildings in the Green Belt is inappropriate except in certain circumstances.

5. The Framework does not define the term, as a whole or in parts, of 'limited infilling in a village', even if it is located outside any defined settlement boundary, as is the case with the appeal site. Therefore, the main parties agree that an assessment of whether the appeal site or scheme meets this criterion is a matter of planning judgement, having regard to the situation 'on the ground'.
6. The appeal site is located at the rear of 139 and 141 Toms Lane, adjacent to the private lane of Seabrook Road. It is surrounded by residential properties with landscape features along all boundaries except the frontage to Seabrook Road. At the time of my site visit, I observed three outbuildings in need of repair located on the appeal site which, itself, was overgrown.
7. The settlement of Bedmond benefits from a good range of facilities and services, including a post office, convenience store, primary school, public house, church, children's play area and sports club. In my view, this provision constitutes a level reasonably expected to be found within a village.
8. Although located over 1km from the site, these facilities and services can be safely accessed by pedestrians via the pavement which runs alongside Toms Lane from the end of Seabrook Road. Whilst the private road does not have a formal pavement, verges are present on both sides and, given the small number of dwellings served, is not heavily trafficked. With a 30mph speed restriction and the amount of traffic I observed during my site visit, safe cycle travel is possible along Toms Lane.
9. When viewed on a map, there is a clear gap in the built form on either side of the highway between the primary school and 202 Toms Lane. However, pavements, street lighting, manicured hedgerows and domestic boundary features are present along both sides of the highway. This, combined with the visual relationship from the road to the sports club and primary school through breaks in the boundary features ensures a sense of being part of the same settlement is experienced along the full length of the route between the appeal site and Bedmond High Street.
10. I have been referred to several appeal decisions¹ relating to new buildings on sites located in the Green Belt including some close to the appeal site. In each case, the Inspector considered whether the respective site was located within a village. In so doing, a judgement was made taking into account many different factors, including having regard to the situation on the ground. Therefore, although some similarities exist between the appeal site and the sites subject to these other appeal decisions, I have determined the appeal based on the evidence before me and my observations of the situation during my site visit.
11. Notwithstanding the strong objections from many interested parties, overall, having regard to the situation on the ground, it is my planning judgement that, for the purposes of the Framework, the appeal site is located within a village.

¹ APP/P1940/W/21/3286584, APP/P1940/W/17/3187494, APP/P1940/W/20/3257184, APP/P1940/W/19/3229189 and APP/P1940/W/21/3284630

12. The main parties agree that the proposed development constitutes limited infilling. On this basis, as I have determined that the appeal site is located within a village, the appeal scheme meets the limited infilling in a village exception. Consequently, I conclude that the appeal scheme would not be inappropriate development in the Green Belt, in accordance with Policy CP11 of the Core Strategy, Policy DM2 of the Local Plan and paragraph 149 of the Framework in this regard.
13. As a result, an assessment of whether the proposed development would meet any of the other exceptions to new buildings in the Green Belt set out in the Framework, irrespective of the permanence, or otherwise, of the existing outbuildings is not required. Furthermore, I do not need to assess the impact of the proposed development on the openness of the Green Belt as it has already implicitly been taken into account in the limited infilling in a village exception, even if the interested parties consider it contributes to it.

Affordable housing

14. As set out in Policy CP4 of the Core Strategy and amplified in the Affordable Housing Supplementary Planning Document (the SPD), all new housing is required to contribute to the provision of affordable housing in the District, without exceptions. Due to the scale of the appeal scheme, the use of a commuted payment, secured by a Section 106 agreement, towards provision off-site would be appropriate.
15. The commuted sum applicable to the appeal scheme has been agreed between the main parties and a draft Section 106 agreement was submitted with the appeal application, signed by the appellant. However, it has not been signed by the Council. Irrespective of which main party is responsible for progressing the full execution of the legal agreement, the draft document does not bind the parties to the obligations therein.
16. Consequently, given the lack of a mechanism to secure the required contributions, I conclude that the proposed development would not make adequate provisions for affordable housing, contrary to Policy CP4 of the Core Strategy and the SPD in this regard.

Other Matters

17. I acknowledge the representations made by interested parties regarding the appeal scheme. Some concerns have been raised relating to the scale of the development relative to the site, that it would be out of keeping with the area and it would set a precedent. However, the Council did not identify any direct harm to the character and appearance of the area within the decision notice, Officer Report, committee minutes or Statement of Case, and there are no substantive reasons before me to conclude otherwise.
18. Based on the evidence before me, including the Biodiversity Checklist and the scale of the site, I have limited evidence to conclude with certainty that the appeal site currently supports a substantial amount of wildlife.
19. Concerns regarding the rights of access onto Seabrook Road and the removal of landscape features when the appeal site was separated from an adjoining plot fall outside the remit of this decision. Any new planting considered appropriate on the boundaries of the site could have been required by a condition had I been minded to allow the appeal.

20. Whilst the appeal application was reported to the Council's Planning Committee with an officer recommendation for approval, the Council is not bound to accept the recommendations of its officers. The fact that the appellant has evolved the appeal scheme through pre-application discussions with the Council and in response to previous refusals and the addresses of interested parties are neutral factors in my decision.

Planning Balance and Conclusion

21. I have found that the appeal scheme would not be inappropriate development in the Green Belt. However, it would not make adequate provisions for affordable housing, contrary to Policy CP4 of the Core Strategy. I find that this policy is consistent with Chapter 5 of the Framework which states that the provision of affordable housing can be sought for residential developments in designated rural areas. Consequently, the proposed development conflicts with the development plan when read as a whole. I apportion considerable weight to this conflict and the associated harm.
22. As the Council is unable to demonstrate a five-year supply of deliverable housing sites, the presumption in favour of sustainable development set out in paragraph 11dii applies. The appeal scheme would have social and economic benefits from the construction and occupation of an additional dwelling, aligning with the Framework's aim to increase the supply of housing. The removal of the unsightly outbuildings and general tidying up of the site would enhance the environment. Further environmental enhancements would result from the proposed development through the implementation of Passivhaus energy performance and construction standards. However, given the scale of the proposed development, all these benefits would be small, and I attach moderate weight to them.
23. Weighing these modest benefits against the identified adverse impacts of the significant harm I have found, I conclude that the adverse impacts of the development significantly and demonstrably outweigh the benefits and the presumption in favour of sustainable development, as set out in the Framework, does not apply. The proposed development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.
24. For the above reasons, the appeal is dismissed.

Juliet Rogers

INSPECTOR