



Appeal Decision

Site visit made on 8 August 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/C3620/W/22/3309219

Woodlands, Burnt Oak Lane, Newdigate RH5 5BJ

- 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 Mr James Bray (KBS Property Development Ltd) against the decision of Mole Valley District Council.
 - The application Ref MO/2022/0772/PLA, dated 3 May 2022, was refused by notice dated 9 September 2022.
 - The development proposed is the erection of 5 new dwellings following demolition of existing outbuildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading is taken from the Council's decision notice and appellant's appeal form as it more succinctly describes that for which permission is sought.
3. The appellant's appeal statement at one point makes reference to the proposed redevelopment at Greenwoods. I have taken this to mean the appeal site.

Main Issues

4. The main issues are:
 - a) whether the proposed development would be inappropriate development in the Green Belt having regard to National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - b) the effect of the proposal on the openness of the Green Belt;
 - c) the effect of the proposal on the character and appearance of the area; and
 - d) 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

5. The Framework advises that in the Green Belt, development should be regarded as inappropriate. Paragraphs 149 and 150 of the Framework set out exceptions, where development in the Green Belt might not be considered inappropriate, subject to certain requirements.

6. The Council does not consider the proposal to fall within any of the exemptions set out in Paragraph 150. The site is identified as agricultural land and so would not fall within the Framework's definition of previously developed land. The appellant has not advanced an argument in favour of the scheme based on Paragraph 150. Given what I saw on site and what I have read in relation to this appeal, I have no reason to disagree.
7. The Council similarly does not consider the proposal to benefit from any exemptions under Paragraph 149. The appellant does however advance some points based around this Paragraph.
8. Under Paragraph 149 (e), limited infilling in villages would be considered an exemption. The appellant considers the proposal to be infilling, albeit the site is accepted as not being within a village. It is however claimed that the site is not within 'open Green Belt'. There is no category of 'open' Green Belt. The appeal site is simply within the Green Belt and although there are dwellings to the east and west of the site and there is a nearby mobile home park, the site is clearly not within a village. Paragraph 149 (e) would therefore not apply in this instance.
9. Alternatively, it is suggested by the appellant that based on a prior approval application for the use of the buildings as dwellings, this current proposal would be for that same use and not materially larger than the buildings they would replace. Whilst Paragraph 149(d) of the Framework does indeed allow for replacement buildings provided they are not materially larger than the ones they replace, the Framework is quite clear that any new buildings must be in the same use as the existing one. The existing buildings are clearly not in an existing residential use and so this exception does not apply. I return to the separate matter of the prior approval as a 'fall back' later in this decision.
10. In the absence of any substantive evidence to suggest that any of the exceptions set out in the Framework would be applicable, I must conclude that the development cannot reasonably be considered to be anything other than inappropriate development in the Green Belt.
11. The proposal would therefore be contrary to the Framework. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

12. Paragraph 137 of the Framework states: 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. Openness is not defined in the Framework but in determining the nature and extent of any impact on Green Belt openness it is necessary to assess both spatial and visual impacts.
13. The existing site comprises a series of agricultural buildings spread across the front of the site. Most are single storey with shallow pitched or flat roofs although there were taller buildings and structures, the tallest of which was a grain store or similar. Those parts of the site immediately around the buildings was hardstanding. The appellant indicates that in floorspace terms the proposal would represent a substantial reduction compared to what is currently on the site. The figures have not been disputed by the Council but issues of openness

are not solely limited to floorspace. As I have indicated, a proposal has to be judged as a whole, taking into account different factors.

14. It seems to me that at present, given the vegetation along the road frontage together with the position and heights of the buildings, the site has a limited wider visual impact upon the area. In contrast, the proposed houses would all have first floor accommodation. Although this would be contained within the roof space, the buildings would all be of sufficient width and height to facilitate this, which would give the proposed built form on site a greater prominence than the existing buildings. The houses would be sited in relatively close proximity to one another, further adding to the overall prominence of the built form.
15. Much of the area currently occupied by the buildings would become the access and driveways for the new houses. All the houses would have areas of hardstanding for car parking as well as a single garage to the front of each house. As a result, the houses and their curtilages would all be pushed back into the site when compared to the existing buildings. This would increase their prominence when seen from the access points into the site.
16. It seems to me that occupiers would inevitably wish to take advantage of the rear patios and long gardens. Tables, chairs, parasols etc. could reasonably be expected to be utilised, and although somewhat transitory in nature, this paraphernalia would detract from the openness of the Green Belt.
17. Overall, anyone passing the site would be likely to have a much greater appreciation visually of the scale of the houses and activities on site compared to the existing agricultural buildings and use. Whilst the land is relatively flat and there are nearby trees, I find that overall, the proposal would represent a small visual loss of openness to the Green Belt.
18. This loss of openness may not be extensive, but harm to the openness of the Green Belt would nevertheless occur; and, as per Framework paragraph 148, any harm to the Green Belt attracts substantial weight.

Character and Appearance

19. The site is currently occupied by what are agricultural buildings. Whilst of no architectural merit, they are what might reasonably be expected to be encountered in a location such as this one. Dwellings either side of the appeal site are large, detached buildings sitting in spacious plots. There is other sporadic development along Burnt Oak Lane which appears to include residential and commercial uses. Nevertheless, the wider surroundings have a predominantly rural character and appearance.
20. In contrast, the appeal scheme proposes five houses positioned close to one another in a layout that would be akin to a short suburban close. This would not reflect the prevailing pattern of development near to the site.
21. There is a mobile home park further along Burnt Oak Lane which is visible within the landscape. However, to my mind that site does not contribute to the character of the area and so is not a good reason to allow what would be harmful development.
22. I find that the proposal would cause harm to the character and appearance of the area. As such, it would be contrary to Policies CS13 and CS14 of the Mole

Valley Core Strategy 2009 (MVCS) and Policies, ENV4, ENV22, ENV23 and ENV24 of the Mole Valley Local Plan 2000 (MVLN) which, amongst other things, require development to respect the character of the area, including the landscape.

Other Considerations

23. The appellant refers to a prior approval application for the conversion of the existing buildings on site into dwellings. It is claimed that the application was valid and not determined by the Council within the prescribed time. On this basis the prior approval is said to be extant. The appellant relies on this as being a fall-back position to which substantial weight should be attributed. However, the Council disputes the validity of the initial application and thus disagrees with the assertion that there exists a prior approval for residential use on the site.
24. It is not within the scope of this appeal to either comment on how the Council dealt with the prior approval or to make a formal determination on whether it is extant. I can only determine this appeal based on the substantive evidence which is before me. There is clearly doubt as to whether or not there is a fall-back position on which the appellant can rely. Therefore, at this stage, as the fall back remains unproven, I am unable to attach weight to it in my decision.
25. The houses are referred to as being small and affordable. However, there is nothing to indicate that they would either fall within the formal definition of being 'affordable housing' or in what other way they might be considered affordable. Whilst the proposed dwellings might be small in comparison to some other properties in the vicinity, as four bedroom detached houses, they would each represent a sizable dwelling. Any positive weight I could attach to these matters would therefore be very limited.
26. There might be a temporary boost to the local economy during the construction phase and occupiers might make a contribution to the local economy in the longer term. However, the scale of the development means that any weight I could give to this matter would be limited.
27. The scheme is said to provide a good standard of accommodation and would not harm the living conditions of neighbouring occupiers. However, these are matters which would be expected for any development to be considered acceptable. Therefore, they do not weigh positively in favour of the scheme.
28. The appellant indicates that the houses would help to reduce dependence upon travel by allowing people to work from home. However, this could be achieved on a less sensitive site. Furthermore, five new houses in the countryside would, it seems to me, be likely to inherently increase journeys by private cars and any future occupier's dependence upon this type of travel.
29. The appellant has not sought to address the Council's concerns regarding the potential harm to archaeological and biodiversity interests. Policy ENV50 of the MVLN requires proposals for sites over 0.4 hectares to be accompanied by a desk based archaeological assessment. Although the application form indicates the site area to be 650m², this is also stated within the application form and appeal statement to be the area of the floorspace of the houses, rather than the site. The appellant has not disputed the Council's calculation of the overall

site area. The absence of any archaeological information renders the proposal contrary to Policy ENV50 of the MVLP.

30. Policy CS15 of the MVCS seeks to ensure that there is no harm to water courses, mature hedges and trees and that there are biodiversity enhancements if such features cannot realistically be retained. There is no information in relation to the biodiversity implications of the development. As such, I cannot be sure that the scheme would comply with this policy.
31. The Framework also supports both the protection of archaeological features and local biodiversity. The lack of this information therefore weighs against the proposal.

Green Belt Balance

32. The development is inappropriate development in the Green Belt which by definition is harmful. It would also result in some loss of openness of the Green Belt. As such, the Framework requires that the harm I have identified 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.
33. The weight I could ascribe to those considerations in favour of the proposed development would be limited and not of sufficient strength to clearly outweigh the totality of the harm I have identified. Very special circumstances do not therefore exist.

Planning Balance

34. Although the Council is unable to demonstrate a 5-year supply of deliverable housing sites, the conflict with the Framework policies for the Green Belt would provide a clear reason for refusing the development. This overrides the Local Plan position or any queries regarding housing land supply. The presumption in favour of sustainable development therefore does not apply in this case.
35. My findings in relation to the effect of the proposal on the character and appearance of the area, together with the precautionary approach I must take in relation to the matters of archaeology and biodiversity also weigh against the proposal.
36. The proposal would not accord with the development plan taken as a whole and there are no other material considerations to outweigh this finding. I have considered all other matters raised but none outweigh the conclusion I have reached.

Conclusion

37. For the reasons given above, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR