



Appeal Decision

Site visit made on 27 July 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th August 2023

Appeal Ref: APP/P1940/W/22/3305196

Belair, Toms Lane, Kings Langley, Herts, WD4 8NH

- 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 M Russell against the decision of Three Rivers District Council.
 - The application Ref 22/0597/OUT dated 18 March 2022, was refused by notice dated 15 July 2022.
 - The development proposed is described on the application form as "Outline application for the construction of a new dwelling".
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Decision

1. The appeal is allowed and outline planning permission is granted for the construction of a new dwelling at Belair, Toms Lane, Kings Langley, Herts, WD4 8NH in accordance with the terms of the application, Ref 22/0597/OUT dated 18 March 2022, subject to the conditions set out in the attached schedule.

Procedural matters

2. The appeal seeks outline planning permission, with all matters reserved for future consideration. I have accordingly treated the submitted plans as indicative only.

Main issues

3. The main issues are:
 - whether the development should make a contribution to affordable housing;
 - the location of development, with particular regard to;- (a) whether the proposal would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt; and (b) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Appeal site context

4. The appeal site is located in the Metropolitan Green Belt on the northern side of Toms Lane, Kings Langley and is accessed via a narrow lane (the 'narrow lane') that leads to a small number of residential properties of varying age,

architectural style and maturity set on spacious plots. It lies to the east of Belair, a detached bungalow, and is primarily laid to grass with mature trees to the boundary. The appeal site also includes a single width access track that connects the site to the narrow lane at the front of Belair.

5. Toms Lane extends from the main built up area of Kings Langley village in an easterly direction towards the village of Bedmond and lies adjacent to agricultural fields and paddock land. It consists of detached and semi-detached 2-storey dwellings of varying age, architectural style and maturity on both sides of the highway, with occasional pockets of development set behind this accessed via narrow lanes. Overall, I found the area to have an edge-of-settlement suburban character, where built form meets the countryside.

Whether the development should make a contribution to affordable housing

6. Policy CP4 of the Core Strategy¹ seeks to ensure that a proportion of all new housing is affordable (split between social rent and intermediate rent) and that whilst provision in most cases needs to be provided on-site, for small schemes of between 1 and 9 dwellings the Council will consider the use of commuted payments towards provision off-site.
7. The development before me is not proposed to be affordable (social rent or intermediate rent) and neither has any off-site commuted payment been agreed between the parties or offered unilaterally by the appellant. As a consequence, the scheme would conflict with Policy CP4.

Whether the proposal would be inappropriate development in the Green Belt

8. Policy DM2 of Development Management Policies Plan² states that the construction of new buildings in the Green Belt is inappropriate with certain exceptions, and that approval will not be given for any new buildings other than those specified in national policy (the Framework³), which include, amongst others, limited infilling within villages.
9. There is no dispute between the parties that the scheme constitutes limited infilling and I see no reason to disagree with this given that the appeal site represents a small gap in a built up area, being enclosed by residential dwellings to the west and a Mobile Home Holiday Park to the east.
10. The matter in dispute centres on whether the appeal site falls within a village. The Council has confirmed that the appeal site falls outside the settlement boundary for Kings Langley village and I agree that this is a relevant consideration. However, case law⁴ has confirmed that the boundary of a village defined in a local plan is not determinative, particularly in circumstances where the defined boundary does not accord with the Inspector's assessment of the extent of the village on the ground. This principle is not disputed by the Council.
11. Toms Lane was developed with housing much later than the central core of Kings Langley and represents an example of linear urban sprawl away from the

¹ Local Development Framework, Core Strategy, Adopted 17 October 2011, Three Rivers District Council.

² Local Plan, Development Management Policies, Local Development Document, Adopted July 2013, Three Rivers District Council

³ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

⁴ *Wood v Secretary of State for Communities and Local Government, Gravesham Borough Council* [2014] EWHC 683 (Admin) and *Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council* [2015] EWCA Civ 195.

central built-up area of the village. However, having appraised the matter on the ground, it is my view that it nonetheless has a close functional, physical and visual relationship with Kings Langley and constitutes part of the village. With regard to the dwellings on the eastern side of the narrow lane (behind the housing fronting onto Toms Lane and adjacent to the appeal site), I recognise that these are different in architectural character, plot size and urban grain, but it is my view that this area is nonetheless sufficiently built-up to also fall within the village envelope.

12. My attention has been drawn by the Council to another appeal decision on a nearby site where the Inspector concluded that this did not form part of the village envelope⁵. However, whilst this site was accessed via a similar narrow lane to the scheme before me, I found the built form context to be different and not directly comparable. I have therefore assessed the proposal on its own merits in the light of all the evidence which is now before me.
13. In view of the above, I conclude that the development is not inappropriate in the Green Belt. In such circumstances, case law⁶ has determined that it should not be regarded as harmful to the openness of the Green Belt or to the purposes of including land in the Green Belt. There is therefore no requirement for me to assess the impact of the scheme on the openness of the Green Belt or the purposes of including land in the Green Belt.
14. In view of the above, I conclude that the proposal constitutes limited infilling in a village. The scheme would therefore accord with Policy CP11 of the Core Strategy and Policy DM2 of the Development Management Policies Plan.
15. I also find that the scheme accords with Paragraph 149 of the Framework, which states that the construction of new buildings in the Green Belt should be regarded as inappropriate, with the exception of, amongst others, limited infilling in villages.

Planning balance

16. Although the Core Strategy and Development Management Policies Plan are over 5 years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
17. Policy CP11 of the Core Strategy and Policy DM2 of the Development Management Policies Plan are broadly consistent with the Framework insofar as they relate to the main issue of this case. However, Policy CP4 of the Core Strategy conflicts with Paragraph 64 of the Framework which states that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. Be that as it may, I recognise that the Council has provided considerable evidence and justification⁷ relating to the extensive local need for affordable housing and I have accordingly given this substantial weight in my consideration.

⁵ APP/P1940/W/19/3229189, decision date 7 May 2020.

⁶ *Lee Valley Regional Park Authority v Epping Forest District Council* [2015] EWHC 1471 (Admin) and *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404.

⁷ Appendix A: Evidence relating to the application of the affordable housing threshold in Core Strategy Policy CP4: Affordable Housing.

18. The appellant states that the District only has a 1.9 year housing land supply. This is well below the 5-year requirement set out in Paragraph 74 of the Framework and has not been disputed by the Council. Furthermore, I have also noted that the delivery of housing in the District was substantially below the housing requirement over the previous three years⁸. In view of this and the absence of any conflict with local and national Green Belt policies, the Framework's presumption in favour of sustainable development applies.
19. The scheme would result in economic and social benefits from; (a) a quickly-deliverable dwelling in a sustainable village location, set against a context of a substantial shortfall in the Council's 5-year housing land supply and housing delivery; (b) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; and (c) local employment during construction. Furthermore, the scheme is a suitable windfall site within an existing settlement for a home, which I have given great weight to in accordance with Paragraph 69 of the Framework.
20. I recognise that the proposal is small in scale, but given the substantial housing land supply deficit and the absence of any evidence that the Council is making consistent progress to appreciably reduce it, it is my view that the above benefits, particularly that in relation to housing delivery, should attract substantial weight, and that when taken collectively, they would not be significantly and demonstrably outweighed by the adverse impacts of the scheme, namely the absence of an affordable housing financial contribution arising from a single dwelling scheme, when assessed against the policies in the Framework taken as a whole.
21. The Council has referred to another local appeal⁹ where the Inspector considered the benefits of a single dwelling to be modest. Be that as it may, a significant period of time has elapsed since that decision was made and planning policy has evolved accordingly. Furthermore, the Inspector in that case also considered there to be a greater range of adverse impacts in the planning balance.
22. I have also had regard to the other appeal decisions referred to in the Council's affordable housing evidence and consider my approach to be consistent with these in that I am satisfied that Paragraph 64 of the Framework does not outweigh Policy CP4 of the Core Strategy in this instance. However, for the reasons stated, I have simply reached a different conclusion on the final planning balance, which is based on the specific circumstances of the appeal before me and the Council's acute need to increase its housing supply. It does not therefore establish a precedent as any future planning applications would be subject to similar individual assessment, on their own merits, at the time of submission.
23. In view of the above, I conclude that although the proposal does not accord with the development plan, other material considerations indicate that the proposal should be determined other than in accordance with this.

Conditions

24. The Council has suggested conditions which I have considered in the light of the comments made by the appellant, the Framework and Planning Practice

⁸ 2021 Housing Delivery Test.

⁹ APP/P1940/W/18/3213370, decision date 22 May 2019.

Guidance. In addition to standard conditions relating to time limits, plan details and the submission of reserved matters, a condition has been imposed for details of the access road construction specification to ensure that it is safe and prevents surface water from discharging onto the narrow lane.

Conclusion

25. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

INSPECTOR

Schedule of conditions

- 1) Application(s) for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. Development shall commence before the expiration of two years from the date of approval of the final reserved matters application.
- 2) Details of the access, appearance, layout, scale and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall thereafter be carried out in accordance with the approved details.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:- 510/20/PL1000, 510/20/PL1002, 510/20/PL1003. For the avoidance of doubt, the proposed site block plan drawing (510/20/PL1003) shall be treated as indicative only.
- 4) Prior to the commencement of the development hereby permitted full details (in the form of scaled plans and written specifications) shall be submitted to and approved in writing by the Local Planning Authority to illustrate the following:
 - a) Gradient of the proposed access driveway which would need to be no greater 1:10; and
 - b) Surface water drainage. Arrangement shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway or adjacent public footpath.

The development shall thereafter be carried out in accordance with the approved details.

End of Schedule