



Appeal Decision

Site visit made on 11 July 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Appeal Ref: APP/G2245/W/23/3314984

Barn Oast, Hilders Lane, Edenbridge, Kent TN8 6LE

- 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 and Mrs Nazim against the decision of Sevenoaks District Council.
 - The application Ref 22/01574/FUL, dated 6 June 2022, was refused by notice dated 11 August 2022.
 - The development proposed is the construction of a new single storey residential dwelling following demolition of a redundant outbuilding.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effect upon the openness of the Green Belt; (ii) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Inappropriate development

3. Policy LO8 of the Sevenoaks Local Development Framework Core Strategy, February 2011 (CS) sets out the approach to development in the Green Belt. I am satisfied that this policy is in broad conformity with the Framework. Paragraph 149 of the Framework sets out that new buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling or the partial or complete redevelopment of previously developed land (PDL).
4. The Council has argued that the proposal would not represent infill development as defined within Section 3 of the Development in the Green Belt Supplementary Planning Document, February 2015. However, even if I were to agree, the fact that the site is previously developed land is not in dispute between the main parties. In addition, given that the proposal would involve the demolition of the existing outbuilding, it would clearly represent a complete redevelopment of the site. The initial requirement of paragraph 149(g) of the Framework has therefore been met, and it is not necessary for me to determine whether the proposed scheme would also represent limited infilling.

5. Paragraph 149(g) continues by stating that a proposal for the complete redevelopment of PDL is not inappropriate provided that it would not have a greater impact on the openness of Green Belt than the existing development.
6. The proposed dwelling, while only single storey, would have a substantially larger footprint than the existing outbuilding. A previous planning application for the conversion of the existing outbuilding was approved by the Council in January 2020¹. The appellant has argued that it is still extant and would slightly increase the size of the building. However, even taking that into account, the appeal proposal would still result in something that is substantially larger. Moreover, even though the appeal site is enclosed to some extent by other buildings, the significant increase in building mass would inevitably lead to a loss of openness in spatial terms.
7. In addition, while the proposed dwelling would only, at most, be glimpsed from Hilders Lane, there is a public right of way that passes immediately next to the site. It would therefore also have a clear visual impact on openness. As such, the proposed development would be inappropriate in Green Belt terms as defined by paragraph 149 of the Framework. While only a single dwelling, the significant increase in built form leads me to conclude that the harm to openness would be moderate in nature.

Other Considerations

8. The appellant has alleged that the previously permitted development to convert the outbuilding is extant as development has commenced. On my site visit, I observed that there was no obvious evidence that this was the case. However, even if I were to conclude that the planning permission has lapsed, it is possible that a new planning application for the same scheme could be submitted and approved. In addition, were that scheme to be implemented, the dwelling could be significantly enlarged by utilising permitted development rights (PD). The appellant has set out that this fallback position, including PD, would be pursued if this appeal is not allowed.
9. If that were case, it is likely that the completed dwelling would be of a similar mass to the appeal scheme, taking account its height and overall footprint. As such, its effect on the openness of the Green Belt would also be broadly similar. In addition, I have no reason to conclude that the fallback position would be more harmful than the appeal scheme in any other regard.
10. However, in terms of the PD aspect of the fallback position, there are no firm proposals before me beyond an illustrative plan showing a potential scheme. In addition, it is clear that very little, if any, progress has been made in relation to implementing the original permission. Therefore, while there is a greater than theoretical prospect that the fallback position could be pursued, there is sufficient uncertainty to lead me to conclude that this matter should only attract moderate weight.
11. Being a single dwelling, I give very limited weight to the contribution that the proposal would make to rural housing and the viability of local services.

¹ Planning application reference: 19/01945/FUL

Conclusions

12. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to the harm to the Green Belt, and very special circumstances will not exist unless the harm is clearly outweighed by other considerations.
13. When considered in combination, the weight that I have afforded to the fallback position and to the provision of a single dwelling, does not clearly outweigh the substantial weight that I must apply to the identified harm to Green Belt. As such, very special circumstances do not exist, and for this reason, the proposal is in conflict with CS Policy LO8 and paragraphs 147 to 150 of the Framework.
14. The Council is unable to demonstrate a five-year supply of deliverable housing sites. Consequently, paragraph 11(d) of the Framework is engaged. However, paragraph 11(d)(i) states that there are circumstances where the application of policies in the Framework to protect areas or assets of particular importance provides a clear reason for refusing the proposal. Footnote 6 identifies Green Belt as such an area and therefore the presumption in favour of sustainable development does not apply in this case.
15. For the reasons given above, the appeal is dismissed.

C Butcher

INSPECTOR