



Appeal Decision

Site visit made on 22 August 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal A Ref: APP/G2245/W/22/3313321

Land east of Chirnside House, London Road, West Kingsdown TN15 6EJ

- 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 Susan Welsh against the decision of Sevenoaks District Council.
 - The application Ref 22/00166/FUL, dated 17 January 2022, was refused by notice dated 31 August 2022.
 - The development proposed is construction of 3 residential houses with 2 parking spaces per house and access road to development.
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Appeal B Ref: APP/G2245/W/23/3322596

Land east of Chirnside House, London Road, West Kingsdown TN15 6EJ

- 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 Susan Welsh against the decision of Sevenoaks District Council.
 - The application Ref 23/00451/FUL, dated 15 February 2023, was refused by notice dated 12 April 2023.
 - The development proposed is construction of 3 residential dwellings with parking and access road to the development.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above, there are two appeals on this site. Both schemes seek to provide 3 dwellings, with parking and an access road. Appeal A seeks to provide two storey dwellings, whereas Appeal B proposes bungalows. I have considered each appeal on its individual merits. However, to avoid duplication I have dealt with the 2 schemes together, except where otherwise indicated.
4. Heads of terms for a planning obligation have been submitted for Appeal B. However, there is no complete or signed planning obligation before me. I return to this matter below.

Main Issues

5. The main issues for both appeals 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 and the purposes it serves; and,
- if the proposal is inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations as to amount to the very special circumstances required to justify the development.

6. There is a further main issue in respect to Appeal B, which is:

- the effect of the proposed access on pedestrian safety.

Reasons

Inappropriate development

7. The appeal site lies to the south of London Road, within the Green Belt. With the exception of the boundary vegetation, the site is clear of soft landscaping and has a gravel and soil surface. To the west of the site is a paddock. There are a small number of dwellings beyond the paddock. To the east of the site is an area of public amenity space that fronts onto School Lane and to the rear is a telephone exchange building and masts. The land to the north of London Road contains a mix of uses and is more developed.
8. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. 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 any harm, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
9. The construction of new buildings is deemed to be inappropriate development within the Green Belt, unless it falls within one of the exceptions set out in paragraphs 149 and 150 of the Framework. The proposals do not seek to provide affordable housing and therefore do not fall within exception f) of paragraph 149.
10. Another exception relates to limited infilling in villages. The appellant considers that the site is located within the village boundary; however, the Council has provided a map which shows that the site lies outside of the settlement boundary for the village. Nevertheless, paragraph 3.3 of the Council's Development in the Green Belt Supplementary Planning Document February 2015 defines limited infill development as '*the completion of an otherwise substantially built up frontage by the filling of a narrow gap.*' While it appears from the evidence before me that there were cottages on land to the east of

the site, these were demolished many years ago. There is currently open land to the east and west of the appeal site and the proposals would therefore not represent the infilling of an otherwise substantially built up frontage. Consequently, the proposals do not fall within exception e) of paragraph 149 of the Framework.

11. While a wider parcel of land may have had a development history, there is no evidence before me of any extant planning permissions for this site. The site is free from built development and does not meet the definition of previously developed land. The proposals would therefore not fall within exception g) of paragraph 149. Neither do they fall within any of the other exceptions listed within paragraphs 149 and 150 of the Framework.
12. It is common ground between both main parties that Appeal B would be inappropriate development in the Green Belt. For the reasons given above, I conclude that both Appeals A and B would comprise inappropriate development in the Green Belt.

Openness and the purposes of the Green Belt

13. Openness is an essential characteristic of the Green Belt that has visual as well as spatial aspects. Both schemes would provide 3 new dwellings on a site which is currently free from built development and open in character. As a result, the proposals would lead to a harmful loss of spatial openness.
14. The appeal site is located on lower level land than the highway and is visually well contained by close boarded fencing and soft landscaping. Both schemes would be set back from the road behind a communal garden. Nevertheless, the provision of 3 new dwellings, even at single-storey height (as proposed for Appeal B) would be visible above the front boundary treatment. While new soft landscaping is proposed to help screen the proposed dwellings, given the location of the access road, both schemes would not be fully screened from the public realm and would result in harm to the visual openness of the Green Belt.
15. The appeal site is viewed within the context of the open countryside and more sporadic development to the south of London Road. The provision of 3 new dwellings on this currently undeveloped land would extend the built up area of the village further into the countryside surrounding it. As a result, the proposals would conflict with one of the purposes of the Green Belt set out at paragraph 138 c) of the Framework, which seeks to safeguard the countryside from encroachment.
16. For the reasons given above, I conclude that Appeals A and B would be harmful to the openness of the Green Belt and would conflict with the purposes of including land within it, contrary to Chapter 13 of the Framework.

Other considerations

17. The Council are unable to demonstrate a 5 year supply of deliverable housing sites. The latest evidence provided by the appellant suggests that the Council currently has a housing land supply of 2.89 years; this is not disputed by the Council. This amounts to a substantial shortfall. Both appeal schemes would provide 3 new dwellings on a windfall site, which would make a modest contribution towards the Council's housing land supply, a matter to which I give limited weight in favour of the developments. Both schemes would provide a communal garden, which would have social and environmental benefits;

however, its position close to a busy A road would reduce the attractiveness of this area as an amenity space, which I also give limited positive weight.

18. There would be economic investment from the construction of the development and future residents would help to support local services and facilities. There would be environmental benefits through the proposed planting, biodiversity enhancement measures and improvements to the boundary treatment. However, even with the proposed landscaping, I do not find that the development of 3 dwellings on this previously undeveloped site would improve the character and appearance of the area. Overall, I give the economic and environmental benefits of the scheme limited weight in favour of the developments.
19. The appellant contends that the site has good access to local services, facilities and public transport links. While it would be possible to walk to local services and facilities, including schools, shops and a doctor's surgery, the majority of facilities are located on the opposite side of the London Road, within the main built up area of the village. Future residents would have to cross the busy A road to access these facilities, where there is no pedestrian crossing. Although there is a bus stop adjacent to the site frontage, bus services are limited. I therefore give limited positive weight to the accessibility of the site to local services and facilities.
20. While both schemes have the potential to deliver energy efficient dwellings, there is limited evidence before me to confirm whether the standard of the dwellings would exceed that required under separate legislation and I therefore give this benefit very limited weight.

Appeal A

21. The appellant argues that there is a chronic lack of housing in West Kingsdown and many families are having to leave the village. The appellant states that the family sized properties will only be available to West Kingsdown residents. However, there is no appropriate mechanism before me to secure this benefit and I therefore give this very limited weight.
22. The appellant claims that the proposal offers an infrastructure benefit as there is a water main and main sewer under the site, which serve the local community and there is no legal agreement in place with the utility company. This matter falls outside of the planning jurisdiction. Furthermore, there is no appropriate mechanism before me to secure this alleged benefit and I therefore give this very limited weight.

Appeal B

23. The proposed bungalows would provide market housing suitable for elderly and/or disabled residents. The proposal would help to meet a need for older persons' housing in the district, add to the diversity of the district's housing stock and help to release larger homes into the market, a matter to which I give moderate weight in favour of the development.
24. The appellant states that the proposal would provide extra care housing for the elderly, which has the potential to provide health and well-being benefits and reduce the demand on public health services. I note the appellant's intention to secure this by a legal agreement; however, there is no signed nor complete planning obligation before me and this cannot be secured by condition. I

therefore give this alleged benefit very limited weight in favour of the development.

25. The fact that Kent County Council did not object to the proposal on highway grounds is a neutral factor and not a planning benefit.

Pedestrian safety

26. Both schemes seek to utilise the same access point to the London Road. Details of visibility splays were provided in Appeal A, but not for Appeal B. For Appeal B, the Council raise concerns that the close boarded fence to the west of the access would obscure visibility, which could be harmful to pedestrian safety. Given that the close boarded fence is set back from the footway behind a grass verge, vehicles exiting the site would have the benefit of clear visibility over the grass verge before reaching the footway. Consequently, the proposal would not lead to conditions that would be prejudicial to pedestrian safety.
27. For the reasons given above, I conclude that the proposal would not be harmful to pedestrian safety. The proposal would comply with Policy EN1 of the Council's Allocations and Development Management Plan (ADMP) February 2015, which seeks to ensure a satisfactory means of access for vehicles and pedestrians. I also find no conflict with Manual for Streets and the Framework, which seek to ensure that development does not have an unacceptable impact on highway safety.

Other Matters

28. The appellant argues that the Green Belt boundary is out of date as it was based on dated housing figures. The appellant also considers that the land is a poorly performing piece of Green Belt. Paragraph 140 of the Framework is clear that Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the plan-making process and this is therefore not a matter for consideration as part of this appeal.
29. The appellant argues that specialist housing for the elderly is exempt from the need to provide affordable housing. The lack of affordable housing does not form part of the reason for refusal and is not a matter of dispute between the main parties. While Appeal B seeks to provide housing that would be suitable for elderly and/or disabled residents, it does not fulfil the criteria as a rural exception site.
30. The appellant has drawn my attention to a housing scheme on School Lane. However, this is materially different as it relates to a rural exceptions scheme and is therefore not comparable with the appeal schemes.
31. The appellant argues that the Council's development plan is out-of-date. It is only the second reason for refusal in Appeal B that references a specific development plan policy. As set out above, I find no harm in relation to pedestrian safety. The reasons for refusal relating to the Green Belt refer to the Framework and do not reference specific development plan policies. The Council's decision is therefore not based on out-of-date policies.

Green Belt Balance and Conclusion

32. Both proposals would be inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt. Furthermore, both schemes would result in harm to the openness of the Green Belt, which I also afford substantial weight.
33. Overall, I give the benefits of Appeal A limited weight and Appeal B, which seeks to provide housing suitable for elderly and/or disabled persons moderate weight. In both schemes, the benefits that would accrue from the provision of 3 new dwellings do not clearly outweigh the harm arising from inappropriateness and the harm to the openness of the Green Belt and the purposes it serves. Therefore, the very special circumstances required to justify the grant of planning permission have not been demonstrated.
34. The Green Belt is a protected area for the purposes of footnote 7 of the Framework. Both proposals would result in harm to the Green Belt. Consequently, the application of policies in the Framework that protect the Green Belt provide a clear reason for refusing the proposed developments in accordance with paragraph 11 d)(i). As such, the presumption in favour of sustainable development does not apply.
35. For the reasons given above, I conclude that both proposals are contrary to Section 13 of the Framework. Accordingly, I conclude that Appeal A and Appeal B should be dismissed.

A James

INSPECTOR