



Appeal Decision

Site visit made on 11 September 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2023

Appeal Ref: APP/C3620/W/22/3313908

Garages at Dale View, Headley, Surrey

- 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 Olivia Hutchinson of Silvertown Properties Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2022/0776/PLA, dated 29 April 2022, was refused by notice dated 27 June 2022.
 - The development proposed is described as Demolition of existing garages, Proposed construction of a new single storey dwellings and associated uses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is in proximity to two other separate appeal sites¹. The appeals are not being considered together because of the distance between them and because each is the subject of a separate planning application to be considered on its own merits. As Inspector for the other appeals, I am aware of the case details and will have regard to them as appropriate.
3. The addresses of occupiers that the proposal is alleged to harm is not set out in the Council's reason for refusal. I have set out the third main issue below having regard to the Council's delegated report and what I saw at my visit.
4. On 5 September 2023 the government published the revised National Planning Policy Framework (2023) (the Framework). The only substantive revisions relate to national policy for onshore wind development. In-light of the issues for consideration in the determination of this appeal, I have not sought the Council's or appellant's comments upon the changes.

Main Issues

5. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal upon the living conditions of the occupiers of Nos 9 – 18 Dale View with particular reference to privacy and outlook; and,

¹ Refs APP/C3620/W/22/3313906 and APP/C3620/W/22/3313907.

- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, and if so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

6. Paragraph 147 states that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework identifies that the construction of new buildings should be regarded as inappropriate, subject to various exceptions in paragraphs 149 and 150. It is put to me the proposal should be considered having regard to paragraph 149f) for limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
7. The appeal site includes a disused block of garages with hardstanding and an access road. It is my understanding that the site has not been used for garaging for a number of years, which reflects the condition of the site at my visit with limited waste piles and vegetation present.
8. The evidence suggests the new dwelling would have an increased building footprint of approximately 18% and an increased overall volume of approximately 83%. It would be on lower ground resulting in the ridge height being of a similar height to the garages, and the plans suggest there would be a significant reduction in hardstanding area, and site clearance. Although there are no detailed calculations of the totality of changes. It would appear that notwithstanding the reduced hardstanding, there would still be a significant overall increased volume of built development. This would result in a moderate adverse effect upon the spatial openness of the Green Belt.
9. The proposed design and materials would not be out of keeping with the character and appearance of the area, and the Council concludes no harm from the design. Having regard to the position, land levels, surrounding built form and mature trees, the proposed development would not be prominently sited from the wider area. However, it would be clearly visible from a number of surrounding properties on Dale View that back onto and look towards the proposed development. The increased scale and massing would have a moderate adverse effect upon the visual openness of the Green Belt.
10. There would be likely to be domestic activity and some paraphernalia associated with the residential dwelling. Although it is unclear whether garaging could resume, the evidence also does not demonstrate the overall movements and levels of site activity could be or would have been significantly greater, than would result from this appeal proposal. On this basis, it is likely that any reductions would appear to be limited and not discernibly counter the visual and spatial harm. Not conflicting with the purposes of the Green Belt in Framework paragraph 138, does not change this conclusion.
11. The appellant suggests the appeal site is within a village, so having regard to paragraph 149e) of the Framework, I shall consider this matter. Dale View, and Headley, are understood not to have settlement boundaries in the development plan. Dale View comprises approximately 56 semi-detached

dwelling generally in groups of pairs aligned with some sections of the highway. Along with Cunliffe Close to its south, it was historically associated with Headley Court. Aside of the recreation ground accessed via the private road and some wider limited public transport access, there is little in the way of services and facilities.

12. Approximately 184 dwellings have been approved at Headley Court to the west, with public transport, local road and footpath improvements. I am not provided with the detailed nature of these or substantive evidence of implementation. In the future it might change the appeal site context, but the evidence provided does not demonstrate the existence of Headley Court or the approval of the applications results in the appeal site being within a village.
13. Dale View is separated by woodland and open space from Headley Court and Cunliffe Close. South of Cunliffe Close there is a very dispersed development pattern with significant open spaces around Tilley Lane and Church Lane. Approximately 700m south are more tightly knit groups of development around and off Church Lane and the B2033. These definable closely related groups appeared to include a significant number of dwellings, and services and facilities including a shop, public house, and church. I passed a village sign when heading towards that area, a few hundred metres south of the appeal site. There was little in the way of a footway along much of the route linking Dale View and this southern concentration of development.
14. Based upon what I saw and the evidence before me, I do not regard Dale View and its immediate surrounds constitute a village. While noting it might be within its census district, having regard to the development pattern of Dale View, that of the surroundings, the significant areas of undeveloped land and open spaces between it and the main concentration of development, and the distance and relationship between them, I do not regard the appeal site as being within Headley. Therefore, the appeal site is not within a village, and would not meet paragraph 149e).
15. Therefore, for the reasons set out above, the proposed development would not meet the exception at paragraph 149e) of the Framework, and it would not meet 149f) because it would have a moderate adverse effect upon the openness of the Green Belt.

Living conditions

16. Nos 9 – 18 curve around part of the north and west of the appeal site. The land slopes down to them, so the proposed new dwelling would be on markedly higher land. The distances between the rear facades of the dwellings and the new dwelling would be between approximately 21 – 40m and the distance between the new dwelling and the edges of the existing rear gardens would be between approximately 9 – 12m at the closer points.
17. The existing boundary fence appears to provide a suitable level of privacy within and between existing neighbouring properties on Dale View. However, the land slope means it is of a reduced height and effect from the appeal site. It would allow close proximity overlooking from the new garden into neighbouring gardens and ground floor windows. The extent and proximity, means the level of overlooking would not ensure a sufficient degree of privacy, resulting in significant harm to the living conditions of adjacent occupiers.

18. The plans suggest the proposed landscape buffer would form an effective privacy screen within 5 years. However, in the meantime, it is not demonstrated it is within the scope of a planning condition to preclude residential use from this area or access be prevented without further enclosures affecting the Green Belt. Though it might be possible to increase the boundary fence height, this has not been offered to me in the evidence, and any effects upon the Green Belt would need weighing in the balance.
19. Three of the rear facing dwelling windows would be high level, serve WC or bathrooms and could be obscure glazed. Therefore, there would be no actual harm from overlooking. Their size and distance from the boundaries mean any perceived effects from overlooking would be limited and not be harmful.
20. Three other windows would be larger and lower. Based upon the section plans these would appear lower than conventional first floor windows on flat land. Having regard to the existing fence, the distance of approximately 21m to the closest rear facades, and the heights, the actual and perceived degree of overlooking would be limited and not untypical of that of facing properties in a residential area. As a matter of judgement this would be such that it would not result in significant harm to the living conditions neighbouring occupiers.
21. From the submitted sections and what I saw the new dwelling would be lower than that of a typical of a two-storey dwelling relative to the existing rear facades based upon a flat landform. The angled north-western façade would maintain a good distance from the boundary, reduce the bulk and massing, and the shallow pitched roof would provide relief. The distances and position mean that the rear windows and gardens of Nos 9 – 18 would retain a good degree of overall outlook. While it would be noticeable, in my judgement the dwelling would not feel overbearing or result in a reduction of outlook that causes significant harm to the living conditions of neighbouring occupiers.
22. For the reasons set out above, the proposed level of privacy for neighbouring gardens would mean there would be significant harm the living conditions of the occupiers of Nos 9 - 18. The proposal would conflict with Policy ENV22 of the Mole Valley Local Plan (2000) (the MVLP) which states development should not significantly harm the amenities of neighbouring occupiers due to overlooking.

Other considerations

23. The emerging local plan (ELP) identifies a number of sites are necessary in the Green Belt to meet housing requirements. Though this has been examined, and subject to modification indicated to be sound, the Council has agreed pauses pending possible changes to national policy. Having regard to paragraph 48 of the Framework, it might well have attracted significant weight. However, the level of uncertainty surrounding its progression and future form, means I attribute it only moderate weight.
24. The proposal would result in limited economic benefits during construction and once complete small on-going benefits to the local economy through on-going spend. There would also be a small contribution to the vitality of local and rural communities, services, and facilities. The removal of guidance in the Planning Practice Guidance (PPG) that unmet housing need is unlikely to outweigh harm to the Green Belt is noted, and it is a matter for the decision maker to take a view upon, based upon the circumstances of a particular case.

25. The Council's Housing Delivery Test (HDT) result is 70%, it can only demonstrate 2.9-year Housing Land Supply (HLS) and the appellant suggests the under supply has been persistent, with demand high, so need could be considered acute. Therefore, the development plan policies most important for determining the application are deemed out of date and paragraph 11d) of the Framework is engaged. The position of the ELP means there are uncertainties as to the way forward to address housing needs. Therefore, while being only for a single dwelling, in the current circumstances the social benefits to housing supply, overall, attract moderate weight in favour of the scheme.
26. If, as suggested in evidence, protected trees were removed prior to making the application, they are not part of the proposal before me, and are a matter between the Council and appellant. The proposal would be compliant with policy objectives for high-quality design. The reduction in hardstanding and landscaping could be secured by planning conditions to secure an overall enhancement. I consider these would result in an overall moderate benefit.
27. A surface water drainage scheme compliant with current standards might well result in an overall benefit, to be attributed limited weight. The Council suggests that any ecological effects could be addressed and mitigated, although no conditions have been put to me. Were I to agree, it is possible that planning conditions could also secure an overall biodiversity net gain. Having regard to the evidence and scope within the appeal site, this suggests it could secure a moderate benefit in the medium to longer term.
28. While not forming part of, or referred to in a reason for refusal, the Council's officer report refers to a conflict with Policies CS1 and CS2 of the Mole Valley Local Development Framework Core Strategy (2009) (the CS) as the proposal is not in one of the locations set out in those policies. The appellant does not provide me with a substantive to demonstrate this is incorrect. However, it is argued they are out of date, so not of relevance to the proposal. Were I to agree with this, this would be a neutral matter. However, the policies are consistent with some objectives of paragraphs 8, 9, 78-80, 105, 119 and 124 of the Framework, and the conflict with them still attracts limited weight.
29. The officer report also refers to a conflict with Policies MOV2 and MOV5 of the MVLP, Policy CS18, and the Framework, in respect of the location being likely to result in private vehicle journeys, which the appellant has not subsequently disputed. It is not a reason for refusal in the decision notice and the Council's report acknowledges, as set out in the Framework, opportunities to maximise sustainable transport solutions will vary between urban and rural areas. As I am dismissing this appeal for other substantive reasons and the number of private vehicle journeys would not be a benefit, I have not considered the matter in detail. Were I to have found the proposal to be policy compliant in this regard it would be a neutral matter in the balance.
30. Not conflicting with the purposes of the Green Belt attracts limited weight. Based upon the substantive evidence before me, compliance with policies in respect of matters such as accessibility, access and parking standards, vehicle charging, refuse and recycling provision, renewable energy, energy and resource efficient design, protected trees, land contamination and flood risk, would be neutral matters. Due to the amount of previously developed area on the appeal site and its previous effect upon archaeology, I am satisfied that a planning condition would be appropriate to address the implications for non-

designated heritage assets, which is a neutral matter. Compliance with policies concerning the living conditions and living environment of future and neighbouring occupiers would also be neutral matters in the balance.

31. I do not have the full circumstances, details and evidence considered by the Inspectors for the appeal decision letters² provided by the appellant. Ref nos. 3265925 and 3265926 were for up to 100 dwellings combined. The HLS shortfall was greater in the two authorities, they had not met their statutory duty for custom and self-build housing and there was 97% and 94% shortfalls in affordable housing delivery. The market, affordable and self-build dwellings attracted very substantial, very substantial and substantial weight respectively.
32. In Ref. 3296116 the overall HLS shortfall was also greater and the latest HDT result was at 41%. The delivery of 47 homes of which 55% were market and 45% affordable, each attracted very substantial weight. While the effects upon the Green Belt would have been greater, the housing needs and benefits were substantial in those appeals. Therefore, they are not directly comparable to this proposal, and do not necessarily justify a similar finding in this appeal.

Green Belt & Planning Balance

33. The proposal would be inappropriate development that would, by definition, harm the Green Belt, and would result in moderate harm to visual and spatial openness. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt. In addition to this, there would be harm to the living conditions of neighbouring occupiers. Therefore, the matters weighing against the scheme are of a high order.
34. Overall, the factors and benefits set out by the appellant, attract moderate weight in favour of the scheme. However, they would not clearly outweigh the harm identified to the Green Belt, and the other harm, which attracts substantial weight. Consequently, the very special circumstances necessary to justify the development do not exist.
35. The proposal conflicts with paragraphs 137, 147 and 148 of the Framework, which seek to preserve the openness of Green Belt and protect it from inappropriate development, unless very special circumstances exist. Therefore, in accordance with paragraph 11d) of the Framework, the application of policies that protect areas or assets of particular importance provide a clear reason for refusing the development, for which the policies of the Framework have not been met. Consequently, the tilted balance does not apply.

Conclusion

36. The proposed development would be contrary to the development plan read as a whole, and the Framework, and there are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR

² APP/B1930/W/20/3265925, APP/C1950/W/20/3265926 and APP/V1505/W/22/3296116.