



Appeal Decision

Site visit made on 20 November 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2023

Appeal Ref: APP/M2270/W/23/3317458

Printstile Place, Penshurst Road, Bidborough, Tunbridge Wells TN3 0LW

- 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 Bailey against the decision of Tunbridge Wells Borough Council.
 - The application Ref 22/02122/FULL, dated 14 July 2022, was refused by notice dated 3 November 2022.
 - The development proposed is demolition of outbuildings, erection of one new dwelling and garage, associated landscaping and hardstanding.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A Unilateral Undertaking has been submitted with the appeal, dated 7 March 2023 (the UU). This has been taken into account in the determination of the appeal.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - Effects on highway safety, with particular regard to the site access;
 - Effects on the character and appearance of the area including the Area of Outstanding Natural Beauty (AONB);
 - Whether the site is suitable for new residential development, having regard to the local plan policies and accessibility to services and facilities, and;
 - 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.

Whether Inappropriate

4. The Framework at paragraph 137 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions set out in paragraph 149.

5. One such exception is (g) limited infilling or the partial or complete redevelopment of previously developed land, which would: (i) not have a greater impact on the openness of the Green Belt than the existing development or; (ii) not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
6. Core Policy 2 of the Tunbridge Wells Borough Core Strategy 2010 (the CS) includes that there will be a presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purposes of including land within it, and makes reference to national planning provisions. Policy MGB1 of the Tunbridge Wells Borough Local Plan 2006 (the LP) similarly seeks to preserve the openness of the Green Belt and resist development which would conflict with its purposes, and states planning permission will not be granted other than for the development types listed.
7. The parties agree the site to be previously developed land, as part of the garden of Printstile Place. It is therefore necessary to establish whether the proposal would comply with either of the two limbs to exception (g), which require consideration of the effects on openness.
8. The Framework states that the essential characteristics of Green Belts are their openness and their permanence. The courts have established that the openness of the Green Belt has a spatial aspect as well as a visual aspect¹. Therefore the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. A number of factors are capable of being relevant in its assessment.
9. The appeal site largely comprises an area of mown and open grassland. It is bound by substantial brick walls and foliage, and there are two small scale outbuildings nestled into the wall at the south west corner of the site. Some post and wire fencing divides the centre of the site, but allows visibility through. Beyond its boundaries, the appeal site adjoins some other residential properties to the north which front onto Penshurst Road. The wider area comprises predominately open countryside with occasional residential properties set within generous sized plots. The openness of the wider area is therefore established by the dispersed pattern of development and predominance of open fields and vegetation.
10. The proposal would introduce a detached two storey dwelling to the centre of the site, along with a double garage with pitched roof. Together these would entail a significant increase in the extent of built form on the site, being substantially larger and taller than those outbuildings which they would replace. The proposal would also entail the creation of additional residential paraphernalia to the site including a new driveway, bin stores, external terrace and new boundary treatments within the site as shown on the plans.

¹ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

11. In terms of visibility, the appellant accepts that the roof form would rise higher than the boundary wall and there is visibility into the site from private windows of the properties to the north. Nonetheless, the visual effects on openness would be limited to localised views. However, there would be a substantial decrease in the spatial aspect of the Green Belt's openness, regardless of how visually obvious the proposed development may be.
12. For this reason, the proposal would have a greater impact on the openness of the Green Belt than the existing development and would not therefore conform to the first limb of exception (g). Even if the harm to openness were not substantial, the proposal would not contribute to meeting an identified affordable housing need, so it would not conform to the second limb.
13. Another exception listed in paragraph 149 of the Framework is (e), limited infilling in villages. Given the site is not within a village, the proposal would also not meet this exception.
14. In conclusion on this main issue, the proposal would be inappropriate development in the Green Belt. It would also present conflict with the purpose of the Green Belt to safeguard the countryside from encroachment. There is not evidence that the proposal would adhere to any of the development types listed in LP Policy MGB1, and, as it would not preserve openness and would conflict with the purposes of including land within the Green Belt, the proposal would be in conflict with both LP Policy MGB1 and CS Core Policy 2.

Highway Safety

15. The proposal would use an existing point of access onto Barden Road from the walled garden. As this access serves only the garden area, and as Printstile Place is served by two other separate accesses, it would appear not to be frequently used at present. While the access is proposed to serve only one dwelling, the appellant accepts it is likely to be used for 4 to 6 two-way trips per day and as such it would be used more frequently.
16. The visibility splay at the access is substantially less than what the Council allege to be the absolute minimum required for joining a road of this speed. While the appellant has undertaken a traffic survey and monitored vehicle speeds, the extent of the splay which should be sought is not in dispute.
17. There are some other residential accesses on to Barden Road close to the appeal site, and the appellant alleges that these do not provide adequate visibility splays but have not caused any recorded accidents. However, even if that is the case, this would not satisfy me that a further access with substandard visibility which could prejudice highway safety, should be accepted.
18. Measures could be installed around the access to assist with visibility and slowing vehicle speeds, including signage and a convex mirror opposite the access. However, these measures would need to be installed outside the appeal site and there is not evidence that these could be delivered or maintained in perpetuity. Similarly, while future occupiers of the house may become accustomed to using the access, this is not necessarily true of all those who may use the access and this does not provide assurances that a lesser degree of visibility would be acceptable.

19. In conclusion on this issue, in the absence of substantive evidence to the contrary, the proposal would cause harm to highway safety. It would conflict with LP policies EN1 and TP4 which require, among other things, safe vehicular access. The proposal would also be contrary to the Framework, which states that development should be prevented on highways grounds if there would be an unacceptable impact on highway safety. I do not consider that these policy requirements should be limited only to large scale developments or areas with higher levels of traffic.

Character and Appearance

20. The site lies within the High Weald AONB. As set out above, it is visually well contained as a result of its boundary treatments and the visual effects of the proposal would be limited to localised views. In views from the road these would be limited primarily to views of the roofline and the lower level paraphernalia would have little impact on the overall character and appearance of the area. While representing development on a predominantly open site in the countryside, the proposal would nonetheless sit among an existing cluster of development and would have little effect on the wider landscape character. Given the varied plot sizes of the adjoining houses, including Printstile Place itself, I do not find that the proposal would cause harm to the established pattern of development.
21. Overall the proposal would conserve the landscape and scenic beauty of the AONB, and an enhancement could be achieved through the associated landscaping of the site. As such the proposal would comply with LP policies EN1 and EN25, as well as CS Core Policies 4 and 14 insofar as they require development to conserve and enhance the landscape character. The proposal would also comply with the objectives of the Framework relating to AONBs.
22. There is not substantive evidence of the alleged conflict with the Borough Landscape Character Area Assessment 2002 Second Edition, nor with the High Weald AONB. However, for the reasons set out, I am satisfied that the proposal would adhere to local and national policy in this regard.

Location for New Housing

23. Core Policy 14 of the CS relates to development in villages and rural areas, and states that new development will generally be restricted to sites within the Limits to Built Development (LBD) of villages, with the exception of affordable housing to meet an identified local need. The proposal, being outside the LBD, would therefore conflict with this policy.
24. LP Policy LBD1 similarly seeks to limit development outside the LBD unless it accords to other policies in the Plan. For the reasons set out under the main issue above, I find the proposal to adhere to policy EN25 of the LP as it would meet the criteria it sets out. In turn, I do not find conflict with Policy LBD1.
25. CS Core Policy 3 seeks to encourage sustainable modes of transport and the Framework similarly states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and promote sustainable transport modes. Despite its rural location, the main parties agree there are bus stops close to the appeal site which provide services going in both directions towards the nearest settlements and beyond. There is no pedestrian footway on Penshurst Road and no lighting.

Nonetheless, given the proximity of the bus stops to the site and to the other residential properties, those bus services would provide a reasonable alternative to private car use. As a consequence, the proposal would be reasonably connected to the nearest rural communities and to the services and facilities of the nearest settlements. Despite the conflict with Core Policy 14, for these reasons and given the compliance with LP policies EN25 and LBD1, I find the location of the development to be acceptable.

26. Insofar as this main issue is concerned and in the absence of detailed evidence to the contrary, there would not be conflict with LP policy EN1 or CS Core Policies 4 and 6, which relate to other matters.

Other Considerations

27. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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. The proposal would be inappropriate development in the Green Belt, and harm has also been found in respect of highway safety. The Framework requires that substantial weight is given to any harm to the Green Belt and I attach significant weight to the harm to highway safety.
28. The appellant has set out that the existing house of Printstile Place could be substantially extended using permitted development rights under the GPDO², including a single storey rear extension and a two storey side extension. If the appeal were allowed, the UU is intended to remove permitted development rights from Printstile Place under Classes A and AA of Schedule 2, preventing such extensions from occurring without planning permission.
29. There is not detailed evidence to confirm that those additions could otherwise be carried out under permitted development, and I have concerns in this regard particularly given the lack of detail of those extensions and whether they could be achieved under the provisions of the GPDO relating to AONBs. In any event, even if they did represent a viable fall-back position for the appellant, those works would have different effects on the AONB and Green Belt particularly as they would be attached to the existing built form and used in connection with the main house, rather than introducing a separate entity. Taking these factors together, the alleged fall-back position attracts little weight.
30. The proposal would provide a new family dwelling which would contribute to the national objective to boost the supply of homes and this is particularly important given the under supply of land for housing identified by the Council. This would be on brownfield land on a small site and could be built out relatively quickly, and the Framework acknowledges the importance of these sites to meeting the housing requirement of an area. Landscaping and biodiversity enhancements could be delivered to the site and its maintenance could be made easier by having new residents. In addition, there would be some economic benefits arising from the construction process and ongoing expenditure by new residents into the local economy. The contribution to the

² The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

housing stock would however be a single unit and together these benefits attract moderate weight, given the scale of the proposal.

31. The development has been found to be acceptable in other respects, including in terms of its effects on the non-designated heritage asset and AONB. However these are neutral matters and do not weigh in favour of the development.
32. Overall, the weight of the other considerations in this instance would not be sufficient to outweigh the totality of harm to the Green Belt and highway safety. As a consequence, the very special circumstances necessary to justify the development do not exist.

Other Matters

33. The Council accept that it cannot demonstrate a 5 year land supply for housing and has a supply of 4.49 years. As such, paragraph 11d) of the Framework is relevant to the appeal. However, as the application of policies in the Framework insofar as they protect Green Belts provide a clear reason for refusing the development proposed, the appeal scheme does not benefit from the presumption in favour of sustainable development.

Conclusion

34. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR