



Appeal Decision

Site visit made on 31 October 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2023

Appeal Ref: APP/C3620/W/23/3319709

Coombers Minor, Partridge Lane, Newdigate, Surrey RH5 5EE

- 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 Dean and Julie Garvin against the decision of Mole Valley District Council.
 - The application Ref MO/2022/1468/PLA, dated 19 August 2022, was refused by notice dated 14 October 2022.
 - The development proposed is erection of 2 No. dwellings following demolition of existing non-agricultural buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form and appellants' submission state that a new or altered vehicular access is not proposed from the public highway. However, I noted on my site visit the existing vehicular access is located in a different position to that shown on the existing and proposed plans. I have determined the appeal based on the access shown on the proposed plans.
3. Following refusal of this planning application, a revised application at Coombers Minor for the demolition of existing non-agricultural buildings and the erection of one dwelling was approved on 9 June 2023 (Ref: MO/2022/1908/PLA) (the approved scheme). The approved scheme utilises the existing vehicular access.

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt and the effect of the proposed development on the openness of the Green Belt, having regard to the National Planning Policy Framework (the Framework);
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on protected species and their habitats;
 - the effect of the proposed development on highway safety; 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.

Reasons

Inappropriate development and openness

5. The appeal site lies outside of the defined settlement boundary and within the Metropolitan Green Belt. There is a modest sized bungalow within the appeal site. Adjacent to the front boundary is an open fronted metal storage building and timber outbuilding. Towards the rear of the site are a stable building and double garage. The site also contains a chicken house. The proposal seeks to remove the existing stores, chicken shed and garage building and provide two new dwellings.
6. 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.
7. 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 appellants argue that the proposal would fall under the exception listed at paragraph 149 g) of the Framework, which refers to the partial or complete redevelopment of previously developed land, providing the proposal would not have a greater impact on the openness of the Green Belt than the existing development. There is limited evidence before me to suggest that the proposal would fall within any of the other exceptions set out within paragraphs 149 and 150 of the Framework.
8. Annex 2 of the Framework defines previously developed land as '*land which was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed).*' The extent of the garden of the existing dwelling is a matter of dispute between both main parties, as is the lawfulness of the existing garage. The evidence provided by the Council and a third party indicate that historically, the domestic garden for Coomers Minor was smaller than it is today and did not incorporate the stable building.
9. There is no lawful development certificate before me to confirm the lawful use of the land or the lawfulness of the garage. As a result, I cannot be satisfied that the appeal site in its entirety forms part of the domestic area for the existing bungalow. The red line site plan for the appeal scheme is also larger than that of the approved scheme and incorporates parts of the fields to the north and east. It is proposed that this land would be used as garden land and to provide access and parking for one of the proposed dwellings. It is therefore clear that the appeal site in its entirety does not fall within the definition of previously developed land, as set out in Annex 2 of the Framework.

10. Openness is an essential characteristic of the Green Belt that has visual as well as spatial aspects. The buildings/structures to be replaced are modest in size and with the exception of the garage, appear rural in character. The appellants argue that the volume and floorspace would not exceed that of the existing buildings to be removed. While the proposal would amalgamate built form on site, the proposed dwellings would be bulkier in appearance and have higher roofs than the buildings they would replace. The proposal would also result in a more intensive use of the site, with the creation of two new residential curtilages, parking and turning areas and resultant domestic paraphernalia. Consequently, the proposal would lead to a harmful loss of spatial openness when compared to the existing situation.
11. While the proposal seeks to remove the existing storage buildings, which are located adjacent to the front boundary, these buildings are largely screened from the highway by the existing front boundary treatment and vegetation. In any event they do not appear incongruous in this rural location. While additional planting would provide some screening of the proposal, given the height of the proposed dwellings, glimpsed views are likely to remain from the public highway, above the boundary treatment. As a result, the proposal would also cause harm to the visual openness of the Green Belt.
12. For the reasons given above, I conclude that the proposal would be inappropriate development in the Green Belt and would harm the openness of the Green Belt. The proposal would therefore not fall within exception 149 g) of the Framework.

Character and appearance

13. The appeal site lies within a rural location. The area is characterised by sporadic residential development, set within a predominantly agricultural landscape. To the north and east of the appeal site are fields, which are within the appellants' ownership. To the south is a former farmhouse, known as Coomers Farm. Adjacent to Coomers Farm is a small-scale, modern housing development. The existing bungalow is modest in size and has a shallow pitched roof. The buildings/structures to be replaced are also modest in size and do not appear out of character in this rural area.
14. The design and external materials would respect the local vernacular and would be in keeping with the adjacent development at Coomers Farm. The proposal would also be lower in height and less visually prominent than the adjacent development. I appreciate that the development at Coomers Farm was not solely located on the site of the existing buildings and resulted in an increase in built form compared to the original development. However, the scheme at Coomers Farm is materially different to the appeal scheme, as the original buildings were far larger in size and two of the original buildings had consent to convert them to residential use. The two schemes are therefore not comparable.
15. I acknowledge that the proposed development would consolidate built form on site and provide a more uniformed development in respect to materials and heights. However, the proposed dwellings would be taller, bulkier and more domestic in their appearance than the buildings that they would replace. As the proposed dwellings would be set back some distance from the highway, behind the existing bungalow, only glimpsed views of the proposed development would be available from the public realm. However, there would be views available

from the surrounding countryside and neighbouring properties. The creation of two new dwellings, with separate residential curtilages, associated parking/turning areas, outbuildings and resultant increase in domestic paraphernalia would result in a more intensive use of the site, which would be harmful to the character and appearance of the area. I do not find that the creation of two new parking areas would result in a more rationalised or attractive parking arrangement.

16. The appellants consider that the proposal is of high quality design and would result in a planning betterment when compared with the existing built form. However, high quality design is a requirement of the Framework. While the existing built form is of no particular architectural merit, I do not find it appears incongruous in this rural location.
17. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area and would conflict with Policies CS14 of the Mole Valley Core Strategy October 2009 (the Core Strategy) and Policy ENV22 of the Mole Valley Local Plan October 2000 (the Local Plan). These policies among other things require that all new development respects and enhances the character of the area.

Protected species.

18. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on decision makers to consider whether there is a reasonable likelihood of protected species being present and affected by a development. Paragraph 174 of the Framework requires that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
19. A bat survey was submitted with the planning application, which confirms that the buildings to be replaced have negligible potential to support roosting bats. However, the appellants' ecologist considers that the site is likely to be used by foraging and commuting bats. The buildings to be removed were considered to have potential to support nesting birds, with nesting birds found present within the stable building. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended).
20. Aside from the evaluation of the proposed development for bats and birds, the appellants have not submitted an ecological survey relating to protected species or their habitats. I note that following the submission of additional information as part of the approved scheme, the Council were satisfied that great crested newts were not present in the nearby pond.
21. The garden land surrounding the existing dwelling is predominantly laid to grass and closely mown. As a result, it is likely to have low ecological value. However, the proposal would require the removal of a hedgerow and scrub land towards the eastern boundary of the site, which may contain protected species. Consequently, there is a reasonable likelihood of protected species being present on site.
22. While no ecological issues were raised during the planning application process for the neighbouring site, this does not preclude the appeal site from providing a habitat which supports protected species. I also note that no ecological issues were raised as part of the approved scheme; however, the approved scheme is

materially different to the appeal scheme, as it sought to retain the existing hedgerow and would have no impact on an area of scrub land.

23. For the reasons given above, there is insufficient information before me to conclude that the proposed development would preserve protected species and their habitats. The proposal would conflict with Policy CS15 of the Core Strategy and Policy ENV15 of the Local Plan. These policies among other things require that where development is likely to result in harm to a protected species or its habitat, a thorough site investigation is necessary; that proposals protect and enhance biodiversity; and, that development is refused where there would be material harm to a protected species or its habitat.

Highway safety

24. Details of visibility splays for the new access have not been provided as part of this appeal. Adjacent to the northern boundary of the proposed access are trees and other vegetation of a considerable height, which extend up to the carriageway. Vehicles exiting the site would have very limited visibility in a northerly direction. As a result, the proposal would lead to conditions that would be prejudicial to highway safety.
25. For the reasons given above, I conclude that the proposed development would be harmful to highway safety. The proposed development would fail to comply with the Framework, which seeks to resist development where there would be an unacceptable impact on highway safety.
26. Policy MOV2 of the Local Plan is not applicable to this main issue, as it focuses primarily on the capacity of the highway network. Reference within this policy to vehicular access and egress relates to major developments only.

Other considerations

27. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. At the time of the Council's decision, the Council had a 2.9 year housing land supply, which is a substantial shortfall. The proposal would provide two new market dwellings, which would make a small contribution towards the Council's housing land supply. The proposal would accord with an objective of the Framework, which seeks to significantly boost housing supply. The Framework also supports development that makes effective use of land, particularly previously developed land. Part of the appeal site comprises of previously developed land, which I attach limited weight.
28. The proposal would provide housing suitable for elderly and/or disabled residents and help to meet a need for smaller dwellings in the locality; thus, adding to the diversity of the district's housing stock. However, there is no appropriate mechanism before me to restrict the occupation of the dwellings to elderly or disabled occupants. Although the appellants allege that the proposal would provide affordable market dwellings, there is little evidence before me to suggest that the proposed dwellings would be affordable to those on lower incomes. Overall, I give the social benefits of the proposal limited weight.
29. There would be economic investment from the construction of the development and future residents would help to support local services and facilities, which I give limited weight. The appellants consider the proposal would result in a reduction in vehicular activity and improvement to the living conditions of occupants of nearby dwellings due to the cessation of the commercial activity.

Based on the planning history and my site visit, there is limited evidence before me of any commercial activity taking place on site and I therefore give this alleged benefit very limited weight in favour of the development.

30. The proposal has the potential to deliver dwellings that incorporate renewable energy technologies and energy and water efficiency measures. The appellants allege that the proposed dwellings would exceed the latest energy efficiency standards set out within Building Regulations and provide a net gain for biodiversity. However, there is limited information before me to demonstrate how this would be achieved and secured. I attach limited weight to the environmental benefits of the proposal.
31. While the approved scheme represents a fallback position, the approved scheme would have less of an impact on the openness of the Green Belt, the character and appearance of the area, biodiversity and highway safety than the appeal scheme. It therefore carries limited weight.
32. The appellants have drawn my attention to a planning application at Partridge Cottage and a separate appeal decision. However, there is very limited information before me to ascertain whether these schemes are comparable to the appeal scheme. For the reasons set out above, I do not find that the adjacent development at Coomers Farm is comparable and sets a precedent for the proposed development. In any event, I am required to determine the appeal on its own merits.
33. While the immediate neighbours have not objected to the proposal, this does not justify the harm I have identified. Furthermore, the imposition of conditions would not make the development acceptable.

Green Belt Balance

34. The proposal would be inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. The proposal would also cause harm to the openness of the Green Belt. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt. In addition, the proposal would cause harm to the character and appearance of the area and would be harmful to highway safety. There is also insufficient information before me to confirm that the proposal would preserve protected species and their habitats. Overall, the other considerations do not outweigh the harm that I have identified. Accordingly, very special circumstances do not exist that clearly outweigh the harm to the Green Belt, by reason of inappropriateness and the other harm resulting from the proposal.
35. The Green Belt is a protected area for the purposes of footnote 7 of the Framework. The proposal 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 development in accordance with paragraph 11 d)(i). As such, the presumption in favour of sustainable development does not apply.

Conclusion

36. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR