
Appeal Decision

Site visit made on 11 December 2019

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th December 2019

Appeal Ref: APP/G2245/W/19/3236750

Hazeri, Button Street, Swanley, Kent BR8 8DY

- 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 E Newman against the decision of Sevenoaks District Council.
 - The application Ref 19/01241/FUL, dated 18 April 2019, was refused by notice dated 15 July 2019.
 - The development proposed is demolition of existing buildings, removal of caravan and erection of a detached bungalow including associated change of use of land from mixed residential (Use Class C3) and commercial kennels (sui generis) to residential (Use Class C3) (resubmission of planning application SE/18/01998/FUL).
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings, removal of caravan and erection of a detached bungalow including associated change of use of land from mixed residential (Use Class C3) and commercial kennels (sui generis) to residential (Use Class C3) at Hazeri, Button Street, Swanley, Kent BR8 8DY in accordance with the terms of the application, Ref 19/01241/FUL, dated 18 April 2019, subject to the conditions set out in the Schedule attached to this decision.

Application for costs

2. An application for costs was made by Mr E Newman against Sevenoaks District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issue in this case is whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework).

Reasons

4. The appeal relates to a plot of land fronting Button Street, within countryside that forms part of the Metropolitan Green Belt. The site is next to an existing dwelling with commercial kennels, where there is a joint entrance to the separate properties. There is a detached dwelling to the other side, set in spacious grounds.
5. As described in the design and access statement, the appeal site consists of a mobile home with a porch to the front and a conservatory to the rear. In front of this is a detached double garage together with associated hardstanding. To

the rear there is a detached kennel building with covered walkway and covered dog runs all set on a concrete base. The proposal is to remove all the existing buildings and hardstanding area and to replace these with a single storey dwelling, which is proposed towards the rear of the site, over where the existing kennel buildings stand.

6. The Council's decision is on the grounds that the proposal would be inappropriate development in the Green Belt based on the policies set out in the Framework. As this sets out, Government attaches great importance to Green Belts. The fundamental aim of policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence.
7. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate in the Green Belt other than for a number of exceptions. Of these paragraph 145 g) is relevant and deems as not inappropriate limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
8. I agree with the parties that this proposal would comprise the complete redevelopment of previously developed land. Therefore, to be considered as not inappropriate, my decision centres on whether what is proposed would have a greater impact on the openness of the Green Belt than the existing development.
9. The main parties are in agreement that the existing mobile home is a temporary building and, based on the evidence presented, I concur. I consider that this does not apply to the attached porch and conservatory and that the removal of these non-temporary elements, along with the garage, kennels and hardstanding areas, need to be factored in to an assessment over whether what is proposed would not have a greater impact on the openness of the Green Belt than what exists.
10. Openness is not defined in the Framework. However, the Court of Appeal¹ has confirmed that a consideration of openness in the Green Belt has a spatial as well as a visual aspect. The parties are also in agreement over the footprint and volume calculations of the existing and proposed structures. The built footprint of the bungalow would be somewhat less than that of the combined non-temporary buildings, and the volume only slightly more. As the bungalow would consolidate the currently more spread out buildings I am of the view that, in a spatial sense, it would not have a greater impact on the openness of the Green Belt than what currently exists on the site.
11. Visual impact is implicitly part of the concept of openness of the Green Belt. The proposal would result in a permanent dwelling, and with this the associated car parking and residential paraphernalia. Notwithstanding this, the proposed bungalow would be set back unobtrusively in the site and, with the removal of the existing garage and hardstanding towards the front, the Green Belt would not appear visually less open from the perspective of a public view from the main highway.

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

12. I have taken into consideration the Green Belt generally, and not just this site within it, and conclude that this proposal would not be of material harm to its overall openness. Therefore, my finding is that the complete redevelopment of this previously developed site would, as proposed, not have a greater impact on the openness of the Green Belt than what exists. On the basis of the exception set out in Framework paragraph 145 g), the proposal would not be inappropriate development within the Green Belt.

Other Matters

13. The Parish Council has raised further issues regarding this proposal. Regarding highway safety, I agree there is poor visibility at the site entrance. However, as the Council had accepted, the proposals would utilise an existing access which is shared with the kennels. Consequently, I must concur that the proposal would not result in a harmful increase in traffic movements along Button Street beyond the existing level. Regarding supporting information, the need for more detailed environmental surveys is not found to be required for this proposal.
14. Because I have concluded the proposal would be not inappropriate in the Green Belt, there is no need for very special circumstances to be demonstrated in this case. The Council's reason for refusal was on inappropriateness within the Green Belt, and for no further locational policy grounds in respect of replacing the mobile home with a permanent bungalow.

Conditions

15. I have considered the conditions suggested by the Council in the light of the advice in paragraph 55 of the Framework. This states that these should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
16. In addition to the standard time limit for commencement (1), a condition specifying the plans approved is necessary in the interests of certainty (2). In the interests of preserving the openness of the Green Belt, conditions are needed ensuring the removal of the existing buildings and of future domestic permitted development rights (3, 8). In the interests of character and appearance, conditions are necessary covering the provision and maintenance of soft landscaping (4, 5). To encourage sustainable transport policy, a condition is needed to ensure the electric car charging point proposed is installed and retained as available for use (6). To accord with development plan policy, a condition is necessary to secure the implementation of agreed biodiversity enhancements (7).

Conclusion

17. For the reasons given the proposal would not be inappropriate development in the Green Belt, based on Framework policy. As this addresses the Council's reason for refusal, and I find no additional material harm to arise, I conclude that the appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 03/A, 04/A, 05/A.
- 3) Prior to the first occupation of the dwelling hereby permitted, all structures annotated to be removed on drawing 03/A shall be demolished in full and all resulting material removed from the land.
- 4) Prior to the first occupation of the dwelling hereby permitted, details of a scheme of soft landscaping, to supplement drawing 03/A, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) If within a period of five years from the completion of the development hereby permitted, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.
- 6) Prior to the first occupation of the dwelling hereby permitted, the electric car charging point annotated on drawing 03/A shall be installed and available for use. The charging point shall be so maintained and remain available for use at all times.
- 7) Prior to the first occupation of the dwelling hereby permitted, details of biodiversity enhancements for the site shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented within 6 months of their approval.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting or amending those Orders with or without modification), planning permission shall be required in respect of development falling within Schedule 2, Part 1, Classes A, B and E of that Order.
