



Appeal Decision

Site visit made on 17 January 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 08 FEBRUARY 2024

Appeal Ref: APP/X0360/W/23/3323960

Foxhaven, Remenham Church Lane, Remenham, Wokingham RG9 3EX

- 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 and Mrs Lyndon against the decision of Wokingham Borough Council.
 - The application Ref 223612, dated 1 December 2023, was refused by notice dated 20 April 2023.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission has previously been granted for a replacement dwelling on the appeal site (the permitted scheme). I observed at the site visit that previous dwellings that were on the appeal site have been demolished. The appellant has confirmed that this represents implementation of the permitted scheme. I am determining the appeal on the basis of the situation that exists at the time of my decision. The dwellings that were previously on the appeal site have been demolished and therefore it follows that the proposal before me does not involve either the demolition of the existing dwellings or the erection of a replacement dwelling. It has therefore been necessary to amend the description of the proposed development and I have determined the appeal on that basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration to this appeal. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal I do not consider it necessary, in this instance, to invite any submissions from the parties on the revised Framework.

Main Issues

4. The main issue are:
 - Whether the proposal would be inappropriate in the Green Belt having regard to the National Planning Policy Framework, any other relevant development plan policies and taking account of the effect of the proposed development on openness;

- the effect of the proposal on the character and appearance of the area; and
- whether the 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 development.

Reasons

Inappropriate development and openness

5. The National Planning Policy Framework (the Framework) 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.
6. The Framework further 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 154. Exceptions include paragraph 154 (d), the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces and paragraph 154 (g), 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. Under paragraph 155 of the Framework, certain other forms of development including sub-paragraph (b) engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
8. Policy CP12 of the Council's adopted Core Strategy Development Plan Document January 2010 (CSDPD) and Policy TB01 of the Council's adopted Managing Development Delivery Local Plan, February 2014 (LP) confirms that the Council will not grant planning permission for inappropriate development within the Green Belt and that development for the purposes set out in paragraph 89 and 90 of the Framework that existed at that time, will only be permitted where they maintain the openness of and do not conflict with the purposes of including land in the Green Belt.
9. I note that paragraphs 89 and 90 of the Framework referred to have been replaced by paragraphs 154 and 155 in the most up to date Framework, but paragraphs 154 (d) and the first and relevant bullet of paragraph 154 (g) together with paragraph 155 (b) were all included in that earlier version. As such these development plan policies are consistent with the most up to date Framework.
10. In terms of which exemption is relevant here, the appellant sets out that paragraph 154 (d) does not apply as the proposal to replace three dwellings with one would result in a material change of use. However, this is a moot point, as this exemption is not available to the appellant in any event as there are no existing residential buildings existing on the appeal site and so there is no building to be replaced.
11. I turn now to consider paragraph 154 (g) of the Framework. I accept that the appeal site meets the definition of previously developed land. It therefore

follows that the proposal potentially engages the paragraph 154 (g) exception of the Framework. However, before I can conclude whether the proposal amounts to inappropriate development in the Green Belt, it is necessary to consider whether the proposal would have a greater impact on the openness of the Green Belt than the existing development.

12. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Bearing in mind that the previous dwellings have now been demolished and the building associated with the permitted scheme has yet to be constructed, the introduction of a building of this size, including a substantial basement would occupy space that is currently undeveloped and consequently the proposed development would harmfully reduce the openness of the site and therefore would undoubtedly have a greater impact on the openness of the Green Belt than the existing development.
13. Visually, notwithstanding any associated landscaping proposals that would help to screen the proposed development, given its height, scale and mass it would have a significant presence in public views from both the road and from the public footpath that runs to the side of the appeal site. Overall, taking account of both spatial and visual aspects, there would be considerable harm to openness to which I give substantial weight.
14. Moreover, the proposal would also involve significant excavation to facilitate the basement development. This in turn would result in regrading of the land which would increase the ground level of the appeal site. This element is an integral component of the overall development proposal and should be considered part and parcel of the proposed development which for the reasons set above I have found would result in considerable harm to openness. However, even if I were to consider this element separately under paragraph 155 (b), as an engineering operation, given the increase in ground level and regrading of the appeal site this would also fail to preserve the openness of the Green Belt.
15. Given my findings above that no relevant exceptions under paragraphs 154 or 155 of the Framework can be relied on, the proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with Policy CP12 of the CSDPD and Policy TB01 of the LP and the associated policies of the Framework as set out above.

Character and appearance

16. The appeal site comprises a large plot of previously developed land within the open countryside within a predominantly rural area. There is an abundance of mature trees and other vegetation on the appeal site which creates a sense of verdant spaciousness which makes a significant contribution to the character and appearance of the area.
17. The Council accept that the principle of residential development has been established as a result of the permitted scheme. Further, they accept that the regrading of the land in association with the erection of the dwelling could be acceptable in principle but consider that inadequate information has been provided.
18. I agree. However, I do not consider this matter insurmountable. Notwithstanding my findings in relation to openness, if in all other respects the

proposal was acceptable, I consider that a suitably worded condition could be imposed to ensure that satisfactory regrading was achieved on the site to respect the existing site contours and to ensure that the proposal would not have an adverse impact on the character and appearance of the area.

19. I therefore conclude that subject to the imposition of an appropriately worded condition the proposal would not have an unacceptably harmful impact on the character and appearance of the area. Consequently, the proposal would not conflict with Policies CP3 and CP11 of the CSDPD of the LP which among other things seek to ensure that development has an appropriate character and integrates with its surroundings.
20. The Council have also cited Policy CP12 of the CSDPD and Policy TB01 of the LP. However, as these deal with development within the Green Belt, they are not strictly relevant under this main issue, and I have dealt with them when considering Green Belt matters.

Other Considerations

21. I have considered the submissions of the main parties on the fall-back position, including relevant case law that has been raised. The appeal site has a significant planning history, but of particular relevance is that planning permission has been granted for the permitted scheme. I am satisfied that there is a greater than a theoretical possibility that the permitted scheme might take place and will be implemented if this appeal is dismissed.
22. However, the proposed development would have a greater impact on the openness of the Green Belt in comparison to the permitted scheme because of the excavation of the proposed basement and the associated regrading of the appeal site which would increase the ground level. As a result, the fall-back position does not weigh in favour of the proposed development.
23. The appellant has drawn my attention to other previous appeal decisions that deal with development within the Green Belt. However, the circumstances and the relationship of these other proposals with their surroundings are materially different from the situation here. Therefore, these other appeal decisions do not alter my view that the proposal would amount to inappropriate development in the Green Belt nor to justify harmful development at the appeal site.
24. The appellant has set out some other considerations which they consider amount to very special circumstances. These include a National Trust Covenant, significant enhancements to the appearance of the site, enhanced sustainability of the site, enhancements to the biodiversity and woodlands, and removal of permitted development rights. However, all these considerations would apply equally to the less harmful permitted scheme and so these factors carry neutral weight in the determination of the appeal.

Green Belt Balance

25. I have found that subject to the imposition of an appropriately worded condition, the proposal would not have an adverse impact on the character and appearance of the area. However, overall, I find that there are no considerations in this case that clearly outweigh the harm the proposal causes to the Green Belt by virtue of its inappropriateness and its impact on openness.

Consequently, the very special circumstances necessary to justify the proposed development do not exist.

Conclusion

26. In summary, the proposal conflicts with the development plan taken as a whole and the Framework and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given and having had regard to all other matters raised, the appeal is dismissed.

S Rawle

INSPECTOR