



Appeal Decision

Site visit made on 8 April 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal Ref: APP/G2245/W/23/3326393

Land north of Langley, Ash Road, Hartley, Kent DA3 8HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Gill against the decision of Sevenoaks District Council.
 - The application Ref is 23/00624/OUT.
 - The development proposed is the erection of 4 detached self-build/custom build houses with amenity land, car parking and ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought, with all matters reserved. Indicative plans have been submitted with the application, showing a site layout, elevations, and floor plans. I have determined the appeal on the basis that the plans are for illustrative purposes only.
3. There are references to the Council's Proposed Submission Version Local Plan 2018 which was subsequently withdrawn and therefore carries no weight.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. The parties were invited to make comments on this. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

5. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area; and
 - whether any harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal represents inappropriate development

6. The site lies within the Green Belt identified in the Council's Local Development Framework Core Strategy 2011 (CS). Policies LO1 and LO8 of the CS seek to protect the extent of the Green Belt and require development to be compatible with policies for protecting the Green Belt.
7. Paragraph 154 of the Framework lists the types of new buildings that are not inappropriate in the Green Belt, subject to certain conditions. This includes limited infilling in villages (paragraph 154(e)). It also includes 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 (paragraph 154(g)).
8. The Framework does not include definitions for "limited infilling" or "village". However, the Council's Development in the Green Belt Supplementary Planning Document 2015 (SPD) defines limited infill development as "the completion of an otherwise substantially built up frontage by the filling of a narrow gap normally capable of taking one or two dwellings only". Further, a substantially built up frontage is defined in the SPD as "an otherwise continuous and largely uninterrupted built frontage of several dwellings visible within the street scene".
9. This part of Ash Road mainly comprises large dwellings with generous spacing around them and some gaps in development. The site has a wide frontage onto Ash Road, and the proposal is for four dwellings. There are some mature trees separating it from the adjacent dwelling "Langley". The neighbouring property has low front walls but the vegetation on the side boundaries provides some screening of the house in views from the road. An access road and a wide grassed verge create a significant gap between the site and "Orchard House" to the north, with boundary trees and hedgerows partially screening this existing property in views from Ash Road. For these reasons, the site does not meet the definition of limited infill development in the SPD and the proposal would not constitute an exception as set out under paragraph 154(e) of the Framework.
10. The definition of previously developed land in the Framework refers to land which is or was occupied by a permanent structure. The Council indicates that the site had an element of hardstanding used for the parking and refuelling of vehicles though some third parties dispute this. A significant part of the site retains hardstanding, and given the history, the site could constitute previously developed land. The impact of the development on the openness of the Green Belt is considered below.

Effect of the proposal on openness

11. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is the absence of development and has both spatial and visual dimensions.
12. The appeal site adjoins Ash Road and the access to a service yard, with an area of open land to the rear. There are no buildings or structures on the site which predominantly comprises hardstanding and gravel. The introduction of four permanent dwellings would inevitably lead to a loss of spatial openness.

13. There would be views of the development from Ash Road, particularly when travelling southbound due to the open nature of the adjacent service yard access road. It would also be visible from neighbouring properties and an area of open land to the rear. As such, there would be harm to visual openness.
14. The effect on openness is not only related to the size of the proposal but also its purpose and the intensity of its use. The introduction of four houses on the site would result in the creation of gardens with their associated domestic paraphernalia. Although there is an existing hardstanding and vehicular access, the site is not in use. The proposed driveway and hardstandings would be used for the manoeuvring, turning, and parking of vehicles associated with four dwellings. Such features and activities would also reduce spatial and visual openness compared to the existing use of the site.
15. Therefore, it follows that the proposal would not fall within the exception in paragraph 154(g) of the Framework.
16. For the reasons above, I conclude that the proposal would be inappropriate development in the Green Belt. As such, it would conflict with Policies LO1 and LO8 of the CS and the Framework.

Character and appearance

17. The site lies in a part of Ash Road consisting of large, detached houses within sizeable plots, with mature boundary landscaping which gives it a verdant character and encloses the properties. It is bounded by close boarded fences on three sides, with some small trees alongside the road. Beyond the rear boundary wire fence, there is open land and rolling countryside with belts of trees, and business premises are visible in part of the foreground.
18. The indicative plans illustrate four dwellings comprising three levels of accommodation with small rear gardens and large areas of hardstanding in front. The proposed new buildings would be located between existing dwellings on Ash Road and their associated extensions, outbuildings and domestic paraphernalia. However, due to the number of houses proposed relative to the size of the site, the scheme would have a much higher density with the buildings sited much closer together than the prevailing development. As such, the proposal would fail to reflect the area's spacious character.
19. In addition, to accommodate four dwellings, the indicative plans show that the houses would be tall, with small frontages. This vertical built form would be significantly at odds with the horizontal appearance of the existing dwellings in the vicinity. Although the fence and landscaping along the Ash Road boundary would provide some screening, the trees could be removed, become damaged or diseased and may only provide screening in the spring and summer months. Further, the development would be particularly conspicuous in views across the service yard access road to those travelling southbound. It would also be visible through the access when travelling northbound along Ash Road.
20. The site lies within the Fawkhams and Hartley Settled Downs area in the Sevenoaks Landscape Character Assessment, key characteristics of which include a sense of enclosure and residential development screened from the surrounding rural areas by woodland. The many landscaped boundaries of nearby properties reflect these characteristics. There is no indication that the scheme would include landscaping to the side and rear boundaries to provide

enclosure and screening, and therefore it would fail to reflect the prevailing landscape character.

21. Consequently, I conclude that the proposed development would harm the character and appearance of the area. This would be contrary to Policies EN1 and EN5 of the Council's Allocations and Development Management Plan 2015 (ADMP) where they require the form of development to respond to the scale and site coverage of the area, and seek to conserve the character of the landscape, amongst other things.

Other considerations

Contribution to housing land supply

22. The Framework seeks to boost the housing supply and highlights the important contribution small and medium sites can make, whilst supporting development which makes efficient use of land. The Council accepts that it has an under-supply of housing against the required five years and the appellant considers that this is because large parts of the Borough are within the Green Belt.
23. The Council's current published position, from April 2023, is based on an annual need of 712 dwellings plus a 20% buffer. This indicates a 3.9 year housing land supply, equating to a shortfall of 941 dwellings. The Council had to produce a HDT Action Plan, and the November 2022 version showed that there had been a shortfall in the delivery of 698 homes in the three years up to 2021. Further, the HDT 2022 confirms delivery at 51% over the past three years, significantly below the 75% referred to in the Framework.
24. The proposed development would make a modest contribution of four dwellings to the supply of housing, making better use of a vacant site with access to public transport and facilities. Four dwellings would make some difference to addressing the shortfall and therefore I attribute modest weight to this benefit.

Contribution to self-build housing supply

25. Councils are required¹ to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building and to grant enough development permissions to meet the identified demand. The Council has provided information on the numbers joining the register in the base periods since July 2015 and the amount of self and custom build plots granted in the subsequent three-year periods.
26. The appellant considers that there are insufficient plots available at an affordable price, with an online search indicating planning applications for 15 self-build homes and five plots for sale on several sites in the Council's area. However, the Framework states that self and custom-build properties could provide market or affordable housing. Further, the Council uses a wide range of evidence, including information from application forms, officer reports and exemption details on Community Infrastructure Levy forms² to identify if permissions are for self-build or custom house building. This shows that the number of permissions granted has previously and continues to exceed the identified demand for self-build and custom-build dwellings. I have no reason

¹ Under the Self-build and Custom Housebuilding Act 2015 'The Act'

² Under the Community Infrastructure Levy Regulations 2010

to disagree with the Council's figures nor any reason to believe that those dwellings counted do not meet the definition in the Act.

27. It has been asserted that the Council has not approved sufficient plots when comparing the additions to the register against the amount of self and custom-build plots approved in base periods 1-7 (1 July 2015 – 30 October 2022). However, this fails to recognise that the period in which planning permissions must be granted is the three years following each base period, and the evidence indicates that this is being met.
28. The appellant further states that many plots approved by the Council are replacement dwellings. Whilst the Framework seeks an appropriate mix of housing types including for people wishing to commission or build their own homes, there is no requirement for self-build and custom-build plots to contribute towards the Council's overall housing land supply.
29. I note the appellant's reference to the insufficient allocation of land for self-build and custom-build homes. However, the requirement is to grant sufficient planning permissions and, from the evidence before me, the Council is currently achieving this. Nevertheless, the provision of four additional self-build/custom build houses would still be a limited benefit to be factored into the planning balance.

Other matters

30. The Council does not find harm or development plan conflict in relation to several other matters, including impacts on trees and ecology. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.
31. A third party raises the positive impact of the proposal on property values, but this is not a planning matter relevant to my determination of the appeal.

Whether there would be Very Special Circumstances

32. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be adverse impacts on openness and harm to the character and appearance of the area. Substantial weight should be given to the harm caused to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
33. I give modest weight to the provision of four dwellings and limited weight to the fact that these would be self-build/custom build houses. However, the other considerations would not clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and other harm. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
34. There are references to appeals allowed for dwellings on Green Belt sites at Fawkhams and Colney Heath³ and on metropolitan open land at Lower Sydenham⁴. All involved significantly more dwellings than the appeal proposal and there were very substantial other considerations which clearly outweighed

³ Appeal Refs: APP/G2245/W/20/3260956 and APP/B1930/W/20/3265925

⁴ Appeal Ref: APP/G5180/W/18/3206569

the harm to the Green Belt in the Fawkham case, including affordable housing provision and the fallback position. These differ to the other considerations which apply to the proposed scheme and the consequent weight given to them. Therefore, these other cases are not comparable to the appeal proposal.

Planning Balance and Conclusion

35. Paragraph 11(d) of the Framework is engaged as the Council is currently unable to demonstrate a five-year housing land supply. In such circumstances, this states that development should be approved unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development. In this appeal, the application of the Framework's Green Belt policies provides a clear reason to refuse the development.
36. The proposal would also be contrary to Policies LO1 and LO8 of the CS in respect of the Green Belt and ADMP Policies EN1 and EN5 relating to character and appearance.
37. Consequently, the proposal conflicts with the development plan and the material considerations, including the Framework and the very special circumstances test therein, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

A Wright

INSPECTOR