



Appeal Decision

Site visit made on 7 February 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2024

Appeal Ref: APP/G5180/W/23/3326041

Woodlands Kennels & Cattery, Grays Road, Westerham TN16 2HU

- 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 P Saladas against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/01424/FULL1, dated 22 March 2021, was refused by notice dated 29 March 2023.
 - The development proposed is the demolition of existing kennel, cattery and outbuilding and the erection of two single storey three bedroom dwellings with associated parking and bin stores.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr P Saladas against the Council of the London Borough of Bromley. That application is the subject of a separate decision.

Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) was published by the Government after the determination of the planning application. It does not raise any new considerations in relation to this appeal. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.
4. In November 2023 all designated Areas of Outstanding Natural Beauty became National Landscapes and so will be referred to as such in this decision.
5. The Council has indicated that in the light of the appellant's submissions it no longer wishes to pursue the third reason for refusal which relates to vehicular movements to and from the site. Accordingly, I make no further reference to it in my decision below.

Main Issues

6. The main issues are:
 - a) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;

- b) the effect of the proposed development on the character and appearance of the area, with particular regard to the Kent Downs National Landscape;
- c) the effect of the proposed development on protected trees; and
- d) 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.

Reasons

Whether Inappropriate Development

7. The Framework explains that the construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to certain exceptions. One such exception is contained at Paragraph 154 (g) of the Framework, which relates to limited infilling or the partial or complete redevelopment of previously developed land (PDL), 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. Policy 49 of the Local Plan 2019 (LP) is broadly consistent with the Framework in that it permits redevelopment of previously developed sites in the Green Belt, provided they do not have a greater impact than the existing development on Green Belt openness and the purposes of including land within it.
9. The appellant contends that the proposal would fully accord with the exception in Paragraph 154 (g) of the Framework and so would not amount to inappropriate development in the Green Belt. None of the other exceptions in the Framework are advanced in favour of the proposal.
10. The Council has queried whether the entire site falls within the curtilage of Woodlands and thus whether the proposal would represent the redevelopment of PDL. Furthermore, and notwithstanding its first point, the Council also considers the scheme to have a greater impact upon the openness of the Green Belt than the existing development.
11. Based on the information before me and my own observations on site, I have no substantive evidence to indicate that the site does not form part of the garden of Woodlands. However, even accepting this, I would still need to consider the impact of the development on Green Belt openness.
12. The Planning Practice Guidance notes at Paragraph: 001 (Reference ID: 64-001-20190722) that a number of factors may be taken into account in assessing the impact of a proposal on the openness of the Green Belt. These include both spatial and visual aspects, as well as the duration and remediability of the development. The degree of activity likely to be generated, such as traffic movement, may also be relevant.
13. In terms of the spatial component of openness, both main parties agree that the proposal would result in a 44% reduction in floorspace and a 23% reduction in volume of built form across the site. However, the consideration under Paragraph 154(g) is not concerned purely with mathematical calculations.

14. Turning to the visual component of openness, the rear part of the appeal site is well screened on its boundaries by planting and vegetation. Most of the former kennel and cattery buildings are set to the rear of the bungalow and garage and so are not prominent within the landscape. Parts of the site are visible from Grays Road although this is mainly limited to some views of the vehicular entrances and the existing bungalow and adjacent double garage.
15. It is suggested that the removal of the sprawl of kennel and cattery buildings would have visual benefits. However, a number of these comprise small open pens and small wooden sheds which limit their visual presence, were they not already well shielded from wider views. Furthermore, the space around some of these buildings also assists in dissipating some of their visual impact.
16. The appeal proposal would extend residential development across a substantial part of the site's Grays Road frontage. The appellant asserts that the proposed development would be visually and physically contained by existing hedgerows and any required additional planting. However, it would at least be possible to discern the existence of these buildings from Grays Road. Indeed, the appellant does not entirely discount the houses having some visual presence.
17. It therefore seems to me that two new dwellings would represent a notable concentration of built form. Whilst they are single storey, their heights are not comparable to the single storey kennel and cattery buildings, including the block work buildings, currently on site. Each dwelling would have a mix of roof heights, with some of the internal space having floor to ceiling heights of over 3.5m. The large roof overhangs and small chimneys would all contribute to giving the development a visual presence and focus that is not so apparent with the existing buildings.
18. In tandem with this, there would be an increased level of activity generated by the two new homes that would also affect the openness of the site compared to how it is currently experienced. Traffic movements associated with the dwellings as well as light emitted from the properties from later on in the day, would visually disrupt what is presently a largely open part of the site with a minimal level of movement and activity associated with the existing dwelling. This would represent an impact on openness that would be permanent and not remediable.
19. Taking all of the above into consideration, I conclude that the effect of the proposal on Green Belt openness would be localised. Nevertheless, it would have a greater impact on openness than the existing development.
20. As a result, the proposed development would not fall within the exception described in Paragraph 154 (g) of the Framework and would be inappropriate development in the Green Belt. By definition, it would therefore be harmful to the Green Belt, and this is a matter to which I afford substantial weight in the planning balance. The proposal would also conflict with Policy 49 of the LP, which seeks to prevent inappropriate development in the Green Belt.

Character and Appearance

21. The appeal site is located on land which although appearing to form part of a residential curtilage, relates well to the open and undeveloped character of the area. Although there is built form on the site and nearby, the site overall

makes a positive contribution to the rural character of the Kent Downs National Landscape along Grays Road.

22. Policy 76 of the LP seeks to protect, conserve and enhance the Kent Downs National Landscape. This approach broadly reflects Paragraph 182 of the Framework, which advises that great weight should be given to conserving and enhancing the landscape and scenic beauty of such areas.
23. In this context, the site layout of two matching houses, linked by decking and cycle stores arranged around a cul-de-sac, would resemble a development more commonly seen on the edges of towns rather than a rural landscape such as this one. I note the intention is for the houses to use a palette of traditional materials although it is unclear from where the influences of their overall design have been drawn and the extent to which they reflect local architecture. The landscaping around the site would help to diminish the conspicuousness of the proposal in the surrounding landscape, but it would not sufficiently mitigate the harm of its incompatibility.
24. I have taken into account the existing buildings, which are to an extent utilitarian in their appearance. However, like their siting, this reflects their origins and their utility. Despite the dilapidated appearance of some of the existing buildings they are not completely alien features within a rural setting such as this one.
25. For the above reasons, I conclude on this issue that the proposed development would harm the landscape and scenic beauty of the National Landscape. It would conflict with Policy 76 of the LP which, amongst other things, requires proposals of high quality design to conserve and enhance the character of the landscape and have a layout which respects the character of the site and the surrounding area.
26. The proposal would also run against the Framework, which says that great weight should be given to conserving and enhancing landscape and scenic beauty of such areas.

Trees

27. The appellant submitted an Arboricultural Assessment and Method Statement report which included a tree survey. It identified a number of trees along the eastern boundary of the site that would be affected by the proposal and that four of them would need to be felled. These four were all identified as category B trees and of moderate quality. However, they are also part of the group of protected trees along this boundary.
28. Individually trees may be unremarkable, however collectively as a group they can add significant landscape and amenity value to the area. In this case the trees contribute both to the amenity of the site and also the wider rural and verdant character of the area. I acknowledge that there are other trees in and around the ones that would be lost, and the overall character of the area would remain. Nevertheless, given their maturity and size the removal of these trees would represent a clear erosion of the amenity value provided to the immediate area by this group. Such harm is likely to be evident in both the short and medium terms.
29. The appellant acknowledges that one tree (T5) would inevitably be lost as a result of the development. In relation to trees T6 and T7, the appellant invites

me to consider imposing a condition. This would require details of the foundation designs of the eastern dwelling and the works necessary to secure the retention of these two trees to be submitted to and agreed with the Council. The appellant notes that this may (my emphasis) enable the trees to be retained. No other further information is provided to support this approach.

30. There are indeed various construction techniques and working methods which are designed to protect trees that are in close proximity to new buildings. However, there is limited information or evidence to indicate which particular approach might be most appropriate in this instance. Furthermore, there is no indication that the proposed development would be within the limits recommended in the relevant British Standards and would not compromise the integrity, health or longevity of the trees.
31. Given the above, I have little information or evidence on which to be confident that a condition would necessarily achieve the desired outcome in this instance. Thus, I am unable to conclude that the protected trees would not be harmed by the proposed works.
32. There may be pressure from future occupiers to remove and/or reduce the trees. Even if I were to find such pressure to be limited and unlikely to be harmful, it would not overcome the uncertainty I have already identified over their longer-term retention.
33. I therefore find that there would be conflict with Policies 37 and 73 of the LP which, amongst other things, require developments to positively contribute to the landscape and to take into account trees on site in the interests of visual amenity.

Other considerations

34. The provision of 2 additional dwellings would add to the supply of houses in the area and would bring social benefits by providing homes for more families. However, this would be tempered by the distance from local services and the likely reliance that future occupants would have on private transport to access them. Economic benefits would be largely confined to those associated with the works during the construction period and are therefore of very limited weight.
35. It is suggested that if the kennel and cattery use were to recommence this would result in an intensive commercial use with traffic, noise and activity that would all be more harmful than the proposed dwellings. Thus, it is suggested that extinguishing this commercial use could be seen as a benefit in support of the proposal in terms of the first two main issues.
36. However, from my site visit I saw that some of the buildings were in a poor state of repair, and it appears that the kennel and cattery activities ceased some time ago. It is not clear if all the existing buildings could be reused, or if some new ones would be required. In either case it seems likely that there would need to be a considerable investment of time and money in order to provide facilities of an acceptable standard.
37. However, there is nothing before me to indicate that investment in the buildings/enterprise would be forthcoming or that there remains a particular demand for such a facility in this location which might justify such an investment. Furthermore, the planning history set out by the Council indicates that the permission for the permanent use of the kennels and cattery was

restricted to the previous occupiers. The Council suggests that the permission is no longer extant.

38. Taking all of the above into consideration, there is no substantive evidence before me to conclude that the site would be used again as a kennels and cattery. Therefore, I cannot conclude at this stage that there is anything more than a theoretical possibility that the operations would recommence. Accordingly, the stated fallback option does not alter my conclusions in respect of the main issues.

Green Belt Balance

39. I have found the scheme to be inappropriate development in the Green Belt which would be harmful to openness. The Framework requires me to give these harms substantial weight.
40. On the other hand, the benefits outlined above carry more limited weight and do not clearly outweigh the substantial harm I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Planning Balance and Conclusion

41. The Council is unable to demonstrate a 5-year supply of deliverable housing sites. Consequently, Paragraph 11 d) of the Framework is engaged. However, the application of policies in the Framework that protect the Green Belt and National Landscapes [referred to in footnote 7 to paragraph 11 d) i)] provide clear reasons for refusing the development proposed. The presumption in favour of sustainable development therefore does not apply in this case.
42. Whilst there may be some beneficial aspects of the scheme, considered overall the development would cause significant harms which would conflict with the development plan when taken as a whole.
43. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR