



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: 22 April 2024

Appeal Ref: APP/G2245/W/23/3336039

Land south of Foxlands, London Road, West Kingsdown TN15 6AP

- 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 George Sawyer against the decision of Sevenoaks District Council.
 - The application Ref is 23/01251/OUT.
 - The development proposed is described as a "single dwelling".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought, with all matters reserved except access. The application includes an indicative site layout plan. I have determined the appeal based on the proposed access in the indicative site layout plan, with the remaining proposed development layout for illustrative purposes only.
3. The National Planning Policy Framework (the Framework) was revised, and the 2022 Housing Delivery Test (HDT) Results were published in December 2023. The parties were invited to make further comments on these. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

4. 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; 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

5. The appeal site lies within the Green Belt identified on the Sevenoaks Policies Map 2015 (the Policies Map). Policy LO8 of the Council's Local Development Framework Core Strategy 2011 (CS) seeks to maintain the extent of the Green

Belt so does not specifically apply to the appeal proposal. Nevertheless, it is the starting point for applying local and national Green Belt policies. CS Policy LO1 states that development will only take place where it is compatible with policies for protecting the Green Belt, and this accords with the Framework. Whilst this was not included in the reason for refusal and although it does not explicitly prohibit development outside the confines of existing settlements, it is relevant to the proposal.

6. Paragraph 154 of the Framework lists the types of new buildings that are not inappropriate in the Green Belt, subject to certain conditions. These include limited infilling in villages (paragraph 154(e)) and limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on openness than the existing development (paragraph 154(g)).
7. The Framework does not include definitions of “village” or “limited infilling”. The Council’s Development in the Green Belt Supplementary Planning Document 2015 (SPD) indicates that the Green Belt boundary usually marks the edge of the settlement where there is a break in development or a change in character to more loose-knit development. To determine whether the appeal site is within a village, regard must be given to the situation on the ground¹.
8. The 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, its definition for a substantially built up frontage is “an otherwise continuous and largely uninterrupted built frontage of several dwellings visible within the street scene”.
9. The SPD provides additional information to assist with the interpretation and implementation of the Council’s policies. The inclusion of the definitions setting out how the Council will interpret the exceptions in the Framework relating to limited infilling helps to ensure consistency in decision making when determining planning applications in the Green Belt. Although the SPD has not been independently examined and does not have the full force of development plan policy, it is a material consideration which assists in determining what would comprise limited infilling.
10. The Council refers to an appeal decision in Badgers Mount². In this case, the Inspector referred to another appeal decision at Halstead where the SPD’s definition of infilling had been found to be consistent with the Framework, and accorded the SPD considerable weight.
11. Conversely, the appellant cites an appeal decision in Seal³ where the Inspector accorded only limited weight to the SPD definition of limited infilling as it is not replicated in the development plan or in the Framework. However, in the Seal case, the Inspector was clear that a judgement on limited infilling can only be reached with reference to a specific proposal and to its surrounding context on a case-by-case basis. This case related to a site surrounded by development on all sides and largely enclosed by a brick wall so visually reads as part of the existing settlement when viewed from the surrounding area. As such, it is not comparable to the appeal site.

¹ Julian Wood v SSCLG and Gravesham Borough Council [2015] EWCA Civ 195

² Appeal Ref: APP/G2245/W/22/3297714

³ Appeal Ref: APP/G2245/W/21/3271885

12. Taking the above into account, I consider that the SPD is broadly consistent with the approach to infilling in the Green Belt set out in the Framework. As such, similar to the Badgers Mount case, it should be accorded considerable weight in determining the appeal proposal.
13. The Policies Map shows Crowhurst Lane as the boundary of the Green Belt. Development outside the Green Belt to the west comprises close-knit suburban development, with rows of houses located close together. The West Kingsdown road sign is sited within this area, a short distance from the lane.
14. Along London Road within the Green Belt immediately east of Crowhurst Lane lies a bungalow. Beyond this are the access and sizeable parking area for Millview Caravan Park, the dwelling Foxlands and the vacant appeal site, with much of this stretch screened by front boundary landscaping. Further on, there is a cluster of three houses. Therefore, development to the east of Crowhurst Lane has a more sporadic, loose-knit pattern than that to the west of the lane. A footway links this part of London Road to facilities in West Kingsdown, but as it has a significantly different character to the development west of the lane, it does not appear as part of the village on the ground.
15. The SPD indicates that infill development in the Green Belt may be appropriate where a change of character is not apparent between the defined settlement and development within the adjoining Green Belt. However, I have found that there is a change in character to the east of Crowhurst Lane, so this does not apply to the appeal proposal.
16. The appellant refers to an appeal decision for another site in London Road, West Kingsdown⁴ where the Inspector found that "The land to the north of London Road contains a mix of uses and is more developed." However, there is no information on the location of that site and that description does not reflect the use and character of development on the part of London Road in which the appeal site is located, so a comparison cannot be made.
17. There is also reference to an appeal decision in Basildon⁵ where the Inspector referred to many other villages having a loose pattern of development, or which incorporate built development interspersed with open land. However, unlike the Basildon case, the settlement of West Kingsdown has a close knit pattern of development and the appeal site does not form part of this.
18. There are no caravans or buildings on the site which comprises some loose surfacing and an earth mound, with tall trees along much of its boundary with London Road. It lies between the dwelling at Foxlands and a cluster of three houses (Viewlands, Well Meadow Cottage and Oaklands).
19. Set back from London Road, the diminutive property at Foxlands is largely screened in views from the road by hedges and trees, with only glimpsed views of it when travelling towards West Kingsdown. The buildings east of the appeal site are larger than Foxlands, with Viewlands and Well Meadow Cottage set back a similar distance from the road. Oaklands is a large two storey dwelling located closer to the front boundary than the other houses. These three properties are clearly visible from London Road, but Viewlands and Well Meadow Cottage are screened in longer distance views when travelling from West Kingsdown by the boundary trees alongside the appeal site.

⁴ Appeal Ref: APP/G2245/W/22/3313321

⁵ Appeal Ref: APP/V1505/W/21/3278853

20. I note that the indicative site layout plan shows that the appeal site could accommodate one dwelling. However, due to the limited views of Foxlands and the roadside landscaping separating it from the development cluster to the east, the site is not within an otherwise substantially built up frontage and the proposed house would not result in the completion of this. Therefore, the proposal would not be limited infilling in a village and would not comply with the exception in paragraph 154(e) of the Framework.
21. The appellant refers to several appeal decisions for developments outside the Council's area which were found to meet the exception for limited infilling in villages in the Green Belt set out in the Framework. However, as the Council has a local approach to the definition of limited infilling outlined in the SPD, those decisions have limited relevance to this case.
22. The definition of previously developed land in the Framework refers to land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The appeal site is part of a larger planning unit which comprises mobile homes on concrete bases. As the mobile homes are temporary and could be removed, and the bases are not structures, the proposal would not involve the redevelopment of previously developed land. It follows that the development does not fall within the exception in paragraph 154(g) of the Framework.
23. Consequently, I conclude that the appeal proposal would be inappropriate development in the Green Belt. As such, it would conflict with Policy LO1 of the CS and the Framework.

Effect of the proposal on openness

24. 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. The Supreme Court has found that the visual effects on openness are a matter of planning judgement⁶.
25. There are no buildings or caravans on the appeal site which predominantly comprises loose surfacing, with an earth and rubble mound. The dwelling would be located between properties on London Road with the existing caravan park to the rear.
26. There is no evidence of caravans or other structures having previously been located on the site so the proposal would result in built development where none has previously existed. Although there are existing residential buildings and roads close by, the introduction of a permanent building would inevitably lead to a loss of spatial openness.
27. There would be views of the development from London Road, particularly through the proposed new access which would require the removal of existing boundary landscaping. It would also be visible from neighbouring properties. As such, there would be harm to visual openness.
28. The effect on openness also relates to the purpose of the proposal and the intensity of its use. The introduction of a dwelling on the site would result in

⁶ R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

the creation of a garden with its associated domestic paraphernalia. Also, the proposed access and hardstanding would be used for the turning, manoeuvring, and parking of vehicles. Such features and activities would also reduce spatial and visual openness compared to the existing use of the site.

29. I acknowledge that the site could be lawfully used for the siting of caravans in perpetuity⁷, and that there could be some paraphernalia associated with this. However, caravans are mobile structures which can be removed, and their siting is a use of the land rather than a building operation. In contrast, the proposed dwelling would be a permanent building and, as such, would have a greater impact on the openness of the Green Belt than the lawful use of the site for caravans.
30. The appellant states that the Council did not raise issues relating to character and appearance and suggests that a condition requiring a landscaping scheme could mitigate the impact of the proposal. However, this would not alleviate the harm to the openness of the Green Belt caused by a new building on the site.

Other considerations

Contribution to housing land supply

31. The Framework seeks to boost the housing supply and highlights the important contribution small and medium sites can make. The Council accepts that it has an under-supply of housing against the required five years. Its current published position, from April 2023, is a 3.9 year housing land supply, an improvement compared to the 2.9 year supply published in September 2021 and referred to in the Seal case. Nevertheless, the appellant considers that the insufficient supply of deliverable sites is due to the highly constrained nature of the Council's area, and this will not significantly improve for some time until the Council's new Local Plan is adopted.
32. The Council had to produce a HDT Action Plan, and the November 2022 version indicates past three-year delivery rates of between 62% and 71% of the district's housing requirements. Further the HDT 2022 confirms delivery at 51% over the past three years, significantly below the 75% referred to in the Framework.
33. I note the references to appeals for caravans for gypsies in Solihull, Guildford and South Gloucestershire⁸ where consideration and significant weight were given to the fact that future sites would be likely to be sited in the Green Belt. However, I have limited evidence of the likely location for future residential development in the Council's area and, in any event, the proposal is for a dwelling rather than a caravan for gypsies, so the cases are not comparable.
34. Nevertheless, the proposed development would make a modest contribution of one dwelling to the supply of housing on a site with access to public transport and services. One dwelling would make some difference to addressing the shortfall and therefore I attribute modest weight to this benefit.

⁷ Certificate of Lawful Existing Use/Development Application Ref: 21/03505/LDCEX

⁸ Appeal Refs: APP/Q4625/W/19/3235301, APP/Y3615/A/10/2131590 and APP/P0119/C/07/2037529

Other benefits

35. There would also be some economic benefits once occupied when future residents would support local businesses. However, given the relatively small scale of the proposal, these benefits would be limited.

Whether there would be Very Special Circumstances

36. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The appeal scheme would be inappropriate development in the Green Belt. There would also be adverse impacts on openness. 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.
37. I give modest weight to the provision of one additional dwelling and limited weight to the economic benefits. However, the other considerations would not clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
38. The appellant refers to an appeal in Three Rivers⁹ where the contribution of a single dwelling and the social and economic benefits were considerations leading to a grant of permission. There is also reference to an appeal decision in Buckinghamshire¹⁰ where the Inspector found the provision of a choice of housing to address a chronic undersupply outweighed the substantial harm to the Green Belt. However, the former was not within the Green Belt and the latter was for a large-scale development, so they are not comparable to the location and scale of the proposed scheme.

Planning Balance and Conclusion

39. 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. The proposal would also be contrary to Policy LO1 of the CS.
40. 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

⁹ Appeal Ref: APP/P1940/W/19/3243908

¹⁰ Appeal Ref: APP/X0415/W/22/3303868