



Appeal Decision

Site visit made on 19 June 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/G5180/W/23/3333504

Oakhurst Piggeries, Cudham Lane South, Cudham, Sevenoaks, Bromley TN14 7QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs L Williams against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/03039/FULL1.
 - The development proposed is the demolition of existing buildings and erection of a new detached dwelling with associated car parking, amenity area and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of a new detached dwelling with associated car parking, amenity area and landscaping at Oakhurst Piggeries, Cudham Lane South, Cudham, Sevenoaks, Bromley TN14 7QA in accordance with the terms of the application, Ref DC/23/03039/FULL1, subject to the conditions in the attached schedule.

Preliminary Matters

2. The main parties have agreed that the proposal would represent inappropriate development in the Green Belt as defined in Policy 49 of the Local Development Framework, Local Plan, London Borough of Bromley Planning Division, January 2019 (BLP) and paragraph 154 of the National Planning Policy Framework (the Framework). I concur with that position.
3. Planning permission¹ was granted in January 2023 for the conversion of the existing buildings to form a new detached dwelling with associated amenity space. During my site visit it did not appear as though that permission had been implemented; however, it is extant.

Main Issues

4. The main issues are:
 - the effect of the proposal on the openness of the Green Belt; and,
 - 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.

¹ Planning permission Ref. 22/03337/FULL1

Reasons

Openness

5. Paragraph 142 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence. The openness of the Green Belt has both spatial and visual dimensions. Furthermore, the effect of a proposal on the openness of the Green Belt is a matter of planning judgement.
6. Although the proposed dwelling would be taller than the existing agricultural buildings, the overall development footprint, floor area and volume of development would be reduced. The proposed dwelling would be sited in a similar area to the existing buildings and would be sited in an area where there is currently hardstanding. For these reasons, the appeal proposal would not have a harmful effect on the openness of the Green Belt in spatial terms.
7. Nonetheless, the existing buildings and structures were formerly used for agricultural purposes. As such, their use was not considered inappropriate development in the Green Belt; whereas, the proposed dwelling would be. Moreover, the appeal proposal would lead to residential activity and the proposed dwelling would be accompanied by domestic paraphernalia such as garden furniture. Consequently, in visual terms, the appeal proposal would harm the openness, contribute to urban sprawl and would not safeguard the countryside from encroachment.
8. The extent of this harm is limited, given the appeal site is largely screened from public areas. Even so, the proposed dwelling would have a harmful effect on the openness of the Green Belt.

Other considerations

9. A planning permission for the conversion of the agricultural buildings to form a dwelling is extant. For the same reasons as above, in spatial terms the appeal proposal would have less of an effect on the openness of the Green Belt than the permitted scheme. Nevertheless, the visual aspects of both the appeal proposal and the permitted scheme need to be considered.
10. The permitted scheme comprises of the conversion of several small-scale, low-lying buildings. Whereas the appeal proposal comprises of a dwelling that is two-storey, with a large, pitched roof alongside a smaller flat-roofed section. The proposed dwelling would lead to increased building mass above the ground floor level when compared with the permitted scheme.
11. In some instances, additional building mass above the ground floor level, would increase the prominence of the building and, therefore, lead to greater harm to the openness of the Green Belt. However, the appeal site is located downhill from Oakhurst. Therefore, whilst the proposed dwelling would be taller, when viewed alongside Oakhurst it would appear to be similar in height. As such, the proposed dwelling would not appear overly prominent in views across the site alongside neighbouring dwellings.
12. Given the nearby residential development uphill from the appeal site, the increased building mass above ground floor level would not have a greater effect on the openness of the Green Belt. Furthermore, given the reduction in the size of the building, particularly the built footprint, the appeal proposal

would have less of an effect on the openness of the Green Belt, than the permitted scheme.

13. One of the essential characteristics of the Green Belt is its openness. As the appeal proposal would have less of an effect on the openness of the Green Belt than the extant planning permission. Moreover, it would make less of a contribution to urban sprawl and would not encroach as far into the countryside. Therefore, the appeal proposal is better aligned with the purposes of the Green Belt as set out in paragraph 143 of the Framework. I therefore ascribe substantial weight to this consideration.
14. The proposed dwelling would be more energy efficient when compared with the permitted conversion. Also, the appeal proposal could include an improved landscaping scheme which could lead to a biodiversity net gain. However, given the modest scale of the development, limited weight is ascribed to these benefits.

Whether very special circumstances exist

15. The appeal proposal would be inappropriate development in the Green Belt and would have a harmful effect on its openness and would conflict with the purposes of including land in the Green Belt. As per paragraph 153 of the Framework, substantial weight is given to any harm to the Green Belt.
16. Nevertheless, substantial weight is given to the appeal proposal having less of an effect on the openness of the Green Belt than the permitted scheme. Additional weight is given to the proposal being a more energy efficient dwelling and the ability to provide a biodiversity net gain.
17. Therefore, I find that the other considerations in this case clearly outweigh the harm that I have identified. Overall, I consider that very special circumstances exist which justify the development.
18. The appeal proposal would therefore comply with Policy G2 of the London Plan, The Spatial Development Strategy for Greater London, March 2021 and BLP Policy 49. These policies indicate that proposals which would be inappropriate development and harm the Green Belt should be refused unless very special circumstances exist.

Other Matters

19. The proposed dwelling would be a sufficient distance away from neighbouring properties, to ensure that they would not be affected by light spill. Furthermore, a condition could be attached to the planning permission to ensure lighting would not have a harmful effect on protected species.

Conditions

20. The Council has indicated the conditions that it considers would be appropriate. I have considered these in light of the guidance contained within the PPG and the Framework.
21. Conditions specifying a time limit to implement the permission and approved plans are required in the interest of certainty. Conditions requiring details of the external finishes, and hard and soft landscaping schemes, to be approved by the local planning authority are required in the interest of character and appearance. Also, a condition requiring planting to take place in the first

- planting season following completion of the development or first occupation, and appropriate maintenance of the vegetation, is required in the interest of character and appearance.
22. The condition requiring details of the hard landscaping scheme also includes a requirement to provide details of refuse storage and an electric vehicle charging point, to ensure that the proposed dwelling would be appropriately serviced and support the use of electric vehicles. Nonetheless, a condition specifying no loose materials to be used for the surfacing of the parking and turning area is not necessary as these details would be included within the hard landscaping scheme. Similarly, a requirement for all of the existing hardstanding to be removed within 3 months of occupation of the proposed dwelling is not reasonable, as these details would be included within the landscaping scheme.
23. Given the previous use of the site as a piggery and the potential contamination associated with that use, a condition requiring an assessment of the risk to be undertaken is necessary. Likewise, a condition requiring work to stop, if any new contamination is found, and not to restart until the contamination is remediated is necessary, due to the previous use of the site.
24. A condition requiring a habitat protection and enhancement plan is required to ensure that protected species will not be harmed by the development, including through external lighting, and to ensure the appeal proposal provides a biodiversity net gain.
25. A condition requiring details of a Construction Method Statement to be approved by the local planning authority is necessary to ensure the living conditions of neighbouring residents are conserved and to ensure highway safety.
26. A condition requiring details of a surface water drainage system to be approved by the local planning authority is necessary to ensure that the proposed dwelling would drain appropriately. It would not be reasonable to attach a separate condition requiring details of a scheme which restricted surface water discharging onto the highway, as the drainage scheme will be subject to the drainage hierarchy outlined in the Planning Practice Guidance.
27. A condition requiring the proposed dwelling to be built in accordance with Building Regulations M4(2) 'accessible and adaptable dwellings' is reasonable to ensure there is an appropriate mix of housing in the borough.
28. Due to the narrow, shared access track, a condition requiring the parking and turning area to be laid out prior to occupation of the proposed dwelling is necessary.
29. A condition requiring prior approval for development which is usually permitted by Class A, AA, B, C, or E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 is reasonable. Any extension to the proposed dwelling would lead to it having a greater effect on the openness of the Green Belt. One of the underlying reasons for granting the development is that it would have less of an effect on the openness of the Green Belt, than the previously permitted scheme. Nonetheless, it would not be necessary to attach a separate condition requiring

prior approval for upward extensions as it would be covered by the aforementioned condition.

Conclusion

30. For the reasons given above, the appeal should be allowed and planning permission should be granted.

J Hobbs

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 drawing nos.: EX-P-00; P-E-01; P-E-02; P-E-03; P-E-04; P-P-01; P-P-02(A); P-P-03; and, P-P-04.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) details of construction traffic movements;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of security hoarding, where appropriate;
 - vi) wheel washing facilities;
 - vii) measures to control the emission of dust and dirt during construction;
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix) full contact details of the site and project manager responsible for the day-to-day management of the work;
 - x) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a maintenance plan for the lifetime of the development.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be maintained thereafter in accordance with the approved maintenance plan.

- 5) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local

planning authority. If any contamination is found, no development shall take place until:

- i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 6) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
 - i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 7) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) No development above ground level shall take place until a habitat protection and enhancement plan has been submitted to and approved in writing by the local planning authority. The habitat protection and enhancement plan shall include:
 - i) A plan showing habitat protection zones;
 - ii) Details of development and construction methods within habitat protection zones and measures to be taken to minimise the effect of any works;
 - iii) Details of the proposed management of the site, biodiversity enhancement features and a timetable for implementation.The protection and enhancement plan shall be implemented in accordance with the approved timetable.
- 9) No development above ground shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) earthworks showing existing and proposed finished levels or contours;
 - ii) existing vegetation to be retained;
 - iii) new vegetation to be planted, including a schedule detailing sizes and numbers of all proposed trees and plants;
 - iv) means of enclosure and retaining structures;
 - v) boundary treatments;
 - vi) vehicle parking layouts;
 - vii) other vehicle and pedestrian access and circulation areas;

- viii) hard surfacing materials;
- ix) proposed and existing functional services above and below ground
- x) external lighting;
- xi) refuse storage;
- xii) cycle storage;
- xiii) electric vehicle charging point; and,
- xiv) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) The development hereby permitted shall not be occupied until the vehicle parking spaces and turning areas have been provided in accordance with drawing no. P-P-04. Thereafter those spaces shall be retained for the parking of vehicles and manoeuvring of vehicles only.
- 12) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting this Order) no building, structure, extension, enlargement or alteration permitted by Class A, AA, B, C, or E of Part 1 of Schedule 2 of the Order, shall be erected or made within the curtilage of the dwelling hereby permitted without the prior approval in writing of the local planning authority.
- 13) The development hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(2) 'accessible and adaptable dwellings' and shall be permanently retained thereafter.