



Appeal Decision

Site visit made on 29 July 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Appeal Ref: APP/T0355/W/23/3332716

43 Mare Lane, Beenhams Heath, Shurlock Row RG10 0QH

- 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 Richard Falk against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 23/01462, dated 15 June 2023, was refused by notice dated 25 August 2023.
 - The development proposed is the erection of a single dwellinghouse with associated access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement (WMS), which is a material consideration, the proposed changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The main parties have been provided with an opportunity to comment on these documents and their responses have been taken into account, where received.

Main Issues

3. The main issues are:
 - 1) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - 2) the effect of the proposal on the openness of the Green Belt;
 - 3) whether the development would provide suitable carbon off-setting measures to mitigate the effects of climate change; and
 - 4) 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 necessary to justify the proposal.

Reasons

Whether the proposal constitutes inappropriate development

4. The appeal site is land within the curtilage of No. 43 Mare Lane that, in addition to garden space, provides parking and contains outbuildings. No. 43 forms part of a small group of dwellings in an otherwise largely rural area, within the Green Belt. The proposal seeks to erect a single storey dwelling at the site, including cycle storage and parking, along with the retention of an outbuilding and the relocation of parking for No. 43.
5. Policy QP5 of the Royal Borough of Windsor and Maidenhead Borough Local Plan 2013-2033 (the Local Plan) defines land in the Green Belt as rural areas where national Green Belt policies will apply. In this regard, the Framework states that construction of new buildings in the Green Belt should be regarded as inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. While this is subject to exceptions the main parties agree that no such exception applies to the proposal.
6. On the basis of the information before me and my observations on site, the proposal would therefore be inappropriate development in the Green Belt, which by definition is harmful to the Green Belt. In this respect, it would fail to comply with Policy QP5 of the Local Plan.

Openness

7. The Framework states that “the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.” It has been established that openness has both a spatial and visual aspect. From both a spatial and visual perspective, the proposal would inevitably lead to a reduction in the openness of the Green Belt by introducing a dwelling on a portion of the site that is currently free from permanent, vertical built form.
8. Although the proposal would involve the removal of certain structures currently at the site, including an outbuilding and shed, these are largely low level features located unobtrusively towards the boundaries of the site so as to retain an overall sense of openness. Even acknowledging the reduction in the height of the proposed dwelling when compared with a previous scheme, it remains that a property of the dimensions proposed located towards the middle of the site would unduly interrupt the current openness. While views of the scheme may be limited in the wider surrounds, it would be clearly visible in the immediate vicinity, particularly to the north of the site, where this impact on openness would be experienced.
9. This would be further highlighted by the subdivision of the site to create two residential plots, separated by boundary fencing. Such creation of an additional residential curtilage would likely lead to additional comings and goings and the presence of further residential paraphernalia on the site. Combined with the built development of the proposal, this would further adversely affect the openness of the appeal site in both spatial and visual terms.

Climate Change

10. Policy SP2 of the Local Plan requires development to demonstrate how it will adapt to and mitigate climate change. The policy does not set a specific standard that developments are expected to achieve but states that applicants should refer to a range of related supplementary planning documents, or successor documents, for further guidance.
11. An Interim Sustainability Statement (ISS) has been prepared by the Council which refers to a net zero carbon rating target for new dwellings and allows for mitigation through a financial contribution towards a carbon off-set fund. The appellant has indicated that a legal agreement would accompany the appeal in this regard. The Council has confirmed that, subject to the completion of a suitable legal agreement, this issue would no longer be in dispute between the main parties. However, no such legal agreement has been provided. As I am dismissing the appeal on other grounds, I have not sought for an update on the progress of such a legal agreement or considered this matter further.
12. For the reasons given, the development would not provide suitable carbon off-setting measures to mitigate the effects of climate change. As such, it would fail to comply with Policy SP2 of the Local Plan and the ISS insofar as they relate to climate change.

Other Considerations

13. A Certificate of Lawfulness exists for a single storey rear extension and erection of three outbuildings at the site. This represents a realistic fallback position. The fallback scheme would have a larger footprint, gross internal area, and volume than the proposal before me. In addition, it would have a greater sprawl of development, with the extension and outbuildings scattered across the site.
14. However, the fallback scheme is low level in nature, limiting its prominence at the site and overall impact on openness. The proposed dwelling of the appeal scheme would have a greater height than each of these structures. As such, even noting the volume, footprint and gross internal area calculations, the consolidation of built form into a single, notably taller feature would be more visually prominent in the immediate surrounds than the fallback scheme, thus having a greater impact on openness.
15. The presence of the appeal scheme would be further highlighted by the subdivision of the site and introduction of an additional domestic curtilage, resulting in increased comings and goings and the placement of additional residential paraphernalia, further impacting on openness to a greater extent than the fallback scheme. As such, while the fallback scheme is a material consideration, given that the proposal would have a greater impact on the openness of the Green Belt I attach limited weight to the fallback position.
16. The proposal would provide an additional dwelling, contributing to housing supply. Even acknowledging the WMS, the weight attributed to the provision of housing in appeal decisions provided by the appellant, and the Council's shortfall in housing land supply, I nevertheless find that in this case the single dwelling nature of the proposal would make a limited contribution to housing supply such that I give this benefit limited weight.

17. The appellant states that the proposal would be self-build and has provided various appeal decisions which have concluded that weight should be attributed to this benefit. However, the application form is clear that the proposal is for market housing and there is nothing substantive before me to suggest that the scheme is self-build. As such, I attach limited weight to any purported benefit of the scheme being for self-build housing.

Whether Very Special Circumstances Exist

18. The proposal would be inappropriate development in the Green Belt. It would also fail to provide suitable carbon off-setting measures. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that harm. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
19. Even when taken together, I find that the other considerations raised in this case do not clearly outweigh the harm to the Green Belt and the other harm identified. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist.

Planning Balance and Conclusion

20. It is agreed between the main parties that the Council currently have a shortfall in housing land supply. Therefore, in accordance with paragraph 11(d) of the Framework, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 to paragraph 11(d) is clear that this applies to land designated as Green Belt. The harm to the Green Belt identified is such that the policies in the Framework relating to the Green Belt provide that clear reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply.
21. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR