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# Appeal Decision

Site visit made on 18 June 2024

**by L Francis BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> September 2024**

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**Appeal Ref: APP/G2245/W/23/3334779**

**1 Bonnyacre Farm Cottages, Wrotham Road, Meopham, Gravesend, Kent DA13 0RF**

- 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 & Mrs Mulley against the decision of Sevenoaks District Council.
  - The application Ref is 23/01324/FUL.
  - The development proposed is the demolition of existing stable building, garage and timber store and the erection of a single storey detached dwelling house and associated parking.
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## Decision

1. The appeal is dismissed.

## Background and Preliminary Matters

2. The appeal site was previously occupied by a stable, a garage and a shed. Planning permission<sup>1</sup> was granted for the demolition of these buildings along with the erection of a single storey detached dwelling and associated parking. The dwelling granted permission was an L shape and at 100 sqm, was no larger in footprint than the outbuildings it was replacing. On that basis the Council considered that the scheme was not inappropriate development in the Green Belt under the exceptions set out in paragraph 154(g) of the National Planning Policy Framework (the Framework).
3. At the time of my site visit, I saw that a single storey dwelling has been substantially completed and occupied, but it is not in accordance with the approved drawings. I note that the application had been submitted to regularise the situation. I have dealt with the appeal on that basis; my decision is necessarily based on the proposed drawings.
4. On 30 July 2024, a consultation was started on proposed changes to the National Planning Policy Framework (the Framework), alongside the publication of a Written Ministerial Statement (WMS) 'Building the homes we need'. Both main parties were invited to comment on the content of the proposed changes to the Framework and on the WMS. A response was received from the Council which I have taken into account in my decision; no comments were received from the appellant.

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<sup>1</sup> Reference 20/01373/FUL

## Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, including any effect on openness having regard to the Framework and any relevant development plan policies; 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.

## Reasons

### *Whether inappropriate development*

6. The appeal site comprises a plot of previously developed land to the rear of the dwelling at 1 Bonnyacre Farm Cottages, served by a shared access with the dwelling. The site is adjoined at the rear by a large paddock. To the north is a fencing supplier and associated yard; to the south, dwellings line the street with fields to the rear.
7. The appeal proposal drawings show a building with an extra section added to the west side, when compared to the extant permission, creating a U-shaped building around a central courtyard. The U-shaped building would also be slightly higher than the permitted dwelling. This results in the dwelling comprising a footprint of 124 sqm, compared to the permitted 100 sqm, along with a small increase in volume over the approved scheme. The facing materials of brick and timber, and the green roof match those in the approved scheme; 4 additional roof lights would also be installed in the west side of the roof.
8. Policy LO1 of the Sevenoaks Local Development Framework Core Strategy 2011 (Core Strategy) focuses on the distribution of development, stating that it will be focused within the confines of existing settlements, and amongst other things, that development will only take place where it is compatible with policies for protecting the Green Belt. Core Strategy Policy LO8 states that the extent of the Green Belt will be maintained. Policy GB1 of the Sevenoaks Allocations and Development Management Plan 2015 (Local Plan) sets out criteria for the extension of dwellings in the Green Belt. Part (a) of this policy requires the dwelling to be lawful. As the extant scheme has not been built out, and the dwelling on site does not have the benefit of planning permission, the appeal scheme conflicts with this policy.
9. The Framework identifies that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework sets out the categories of development which are exceptions to this; in their evidence, the appellant considers the appeal scheme against 154 (c), (d) and (g).
10. Paragraph 154(c) refers to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. As the extant scheme has not been built out, there is no original building to extend; the outbuildings have been demolished already and the scheme is not an extension of these.

11. Paragraph 154(d) provides for the replacement of a building. The appeal scheme however constitutes a different use to the outbuildings previously present on site and it is materially larger than those outbuildings.
12. I have also considered whether the proposal would accord with the exception set out at paragraph 154(g). This allows for the 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.
13. Openness is an essential characteristic of the Green Belt; it can be perceived both spatially and visually. In spatial terms, the larger footprint of the dwelling over and above the approved scheme and demolished outbuildings harms the existing spatial openness to a moderate degree.
14. Visually, the harm to openness is limited. This is due to the positioning of the house within the site. Whilst the house is visible in glimpse views from Wrotham Road, there is almost no difference in this view from the approved scheme as the return wing of the U-shape lies to the rear of the plot and cannot be readily viewed from Wrotham Road. It is barely perceptible in longer views across the fields from Hodsoll Street. Due to the position of the site relative to other buildings, the only other views of the house are from the first floor of 1 and 2 Bonnyacre Farm Cottages and from the rear paddock.
15. As the proposal would have a greater impact on openness when compared to the extant permission, it does not constitute an exception to paragraph 154 which states that new buildings within the Green Belt should be regarded as inappropriate. I attach substantial weight to the harm, by reason of inappropriateness and loss of openness.

#### *Other considerations*

16. A fallback position is presented by the appellant. If the extant permission is completed, the appellant could then extend the 100 sqm building by up to 50% of the floorspace as allowed by Policy GB1 which defines a 'proportionate addition' as an extension of up to 50% of the floorspace of the original building. Should this come to fruition, the building would potentially comprise up to 150 sqm and therefore would be larger than the appeal scheme.
17. There is little evidence before me which would indicate the fallback position presented has a reasonable prospect of occurring, particularly given the financial implications as outlined by the appellant. It would also be dependent on the Council granting planning permission on the basis of the development plan and other material considerations at the time of application. There is nothing before me to suggest that an authority who has refused the appeal scheme would grant permission for an equivalent or larger floorspace pursuant to a further planning application. For these reasons I afford the fallback position limited weight.
18. The U-shaped dwelling provides the benefit of higher quality accommodation, particularly in terms of the configuration of the living area. It also contributes to local housing supply on a small site, which is supported by the Framework. The social and economic benefits of new housing through construction employment and use of local services by residents is noted. This would have

occurred irrespective of whether the appeal proposal or the extant scheme is in place.

19. The appellant maintains that the appeal site makes very little contribution to the Green Belt and does not consider that it falls within an area that it is essential to keep open for any one of the five prescribed purposes of the Green Belt designation. The appeal proposal does not fall within any category of development which under the development plan or Framework requires an assessment of whether the development would conflict with the purposes of including land within the Green Belt.
20. The Council consider that the house does not harm the character and appearance of the area and is otherwise acceptable in terms of its effect on ecology and biodiversity, highways matters and its effect upon the living conditions of nearby residents. The evidence does not lead me to disagree with these conclusions. The absence of harm in these respects is a neutral factor which does not weigh for or against the proposal.
21. The draft revised Framework shows potential changes to the chapter on protecting Green Belt land, including the wording of current paragraph 154(g) regarding effect on openness. Given the potential for change following the conclusion of consultation, I attach limited weight to it in the determination of this appeal. The WMS is also a material consideration. Amongst other things, it sets out that local authorities will be required to review Green Belt boundaries where they cannot meet their identified housing, commercial or other development needs. Whilst this indicates a future direction of policy, I have little evidence before me regarding the potential for Green Belt review in the borough and I note Policy LO8 of the Core Strategy states that the extent of Green Belt will be maintained. As such, I attach some, albeit limited, weight to the WMS in this appeal decision.

## **Other Matters**

22. My attention has been drawn to a judgment where the Court of Appeal<sup>2</sup> endorsed the conclusion of the High Court that where development is found to be 'not inappropriate', it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. There is limited relevance of this judgment to the appeal scheme as I have found the proposal to be inappropriate development within the Green Belt.
23. I have also been referred to an appeal decision<sup>3</sup> relating to a house extension where the Inspector judged that a 53% increase in volume was not a disproportionate addition. The proposal was not found to be inappropriate development and any consequent loss of openness was not significant in Green Belt terms. I do not consider there are comparable circumstances given that the appeal scheme is not development under paragraph 154(c) and that there is a moderate loss of openness arising from the scheme.

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<sup>2</sup> Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev1) [2016] EWCA Civ 404

<sup>3</sup> APP/P5870/D/18/3196834

## **Planning Balance and Conclusion**

24. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It advises that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
25. The other considerations do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the appeal scheme do not exist.
26. The Council is unable to demonstrate a 5-year supply of deliverable housing sites. Consequently, paragraph 11 d) of the Framework is applicable. However, paragraph 11 d) i) provides an exception where there are circumstances where the application of policies in the Framework to protect areas or assets of particular importance provide a clear reason for refusing the proposal. Footnote 7 establishes that this includes the Green Belt. As I have found that the proposal would cause harm to the Green Belt, the appeal proposal does not benefit from the presumption in favour of sustainable development.
27. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole, and the Framework. There are no other considerations that outweigh that conflict and for this reason the appeal should be dismissed.

*L Francis*

INSPECTOR