

Appeal Decision

Site visit made on 19 September 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2024

Appeal Ref: APP/C3620/W/24/3337286

Rydal Oaks, Cobham Road, Bookham, Cobham, Surrey KT11 3QL

- 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 James Turk against the decision of Mole Valley District Council.
 - The application Ref is MO/2023/1525/PLA.
 - The development proposed is the erection of 1 No. single storey dwelling following demolition of stables and workshop.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr James Turk against Mole Valley District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). The Council and the appellant have referenced this document within their appeal statements and as such I am satisfied that no party would be prejudiced by my also making reference to the Framework in this decision.

Main Issues

4. The appeal site is located within an area of Green Belt. Accordingly, I consider the main issues are:
 - Whether the proposed development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and relevant development plan policies;
 - If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

5. Policy CS1 of the Mole Valley Local Development Framework Core Strategy (2009) (CS) sets out a spatial strategy for the district and indicates that in the countryside, development will be considered against other policies and government guidance.
6. The Framework states that the construction of new buildings within the Green Belt is to be regarded as inappropriate development subject to the exceptions which are set out in paragraph 154. Paragraph 154 (g) concerns the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings). Such development is acceptable where it would not have a greater impact on the openness of the Green Belt than the existing development. Additionally, the appellant has put forward that the exception at paragraph 154 (d) is relevant, which concerns the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. No other exceptions are relied upon.
7. The appeal site comprises of a number of structures and buildings on land associated with Rydal Oaks, with a new dwelling proposed to replace stables and a workshop, which would be demolished. As such, the site comprises of previously developed land.
8. The Framework makes it clear that openness is an essential characteristic of the Green Belt. The courts have held that the openness of the Green Belt has a spatial aspect as well as a visual aspect.
9. The Council set out that the proposed dwelling would have a floorspace that is below that of the stables and workshop to be demolished, however, the volume would be greater, and the dwelling would be some 500mm taller. These figures are not disputed by the appellant. As such, there would be some spatial loss of openness.
10. The existing stables and workshop buildings are located in close proximity to the recently erected dwelling to the south. The proposed dwelling would be located centrally within the site, and whilst located on an existing sand school, would therefore extend above-ground built form across the site. The dwelling would be more visually apparent therefore than the structure to be removed, and there would be a visual loss of openness, albeit this would be limited given that the dwelling would only be glimpsed through roadside vegetation.
11. Nonetheless, there would be therefore a visual impact upon openness, in addition to the spatial impact that would result, and openness would be reduced. The proposal would not therefore meet the requirements of Framework paragraph 154(g).
12. There is not an existing dwelling on the site that would be replaced. As such, the proposal also does not meet the requirements of 154 (d).

13. Therefore, the proposal would represent inappropriate development in the Green Belt. Such development would be contrary to CS Policy CS1 of the Local Plan, and the Framework, which seeks to protect the Green Belt.

Other considerations

14. The appellant points to the granted prior approval¹ for the replacement of the workshop with a dwelling, and the subsequent approval of a new dwelling² next to the workshop, which has now been built.
15. There was no condition imposed on the planning approval for the constructed dwelling that required the workshop to be demolished, and the appellant suggests that the prior approval dwelling could therefore be erected as a fall-back position.
16. This permission was granted on 5 July 2021, and as a class ZA prior approval, was permitted subject to the condition that it must be completed within a period of 3 years 'starting with the date prior approval is granted'. This is not the case and as such, this approval is no longer extant. Notwithstanding this, given the close proximity of the workshop to the built dwelling, any potential further redevelopment in this position would compromise the living conditions of the occupiers of the completed new dwelling. As such, even if further permission was gained, I do not find that there is a real prospect of the fall-back being implemented. For these reasons, I have given the fall-back position only limited weight in favour of the proposal.
17. Whilst the Council found that the approved single storey planning permission dwelling was not materially larger than the two storey prior approval scheme, I have set out above that this consideration under Framework paragraph 154 (d) does not apply for the scheme in front of me.
18. This is also the case for the further example at Mulberry House³ pointed to by the appellant. My conclusions on these matters do not conflict with the barrister advice⁴ submitted or appeal decision in Penwith referred to.
19. Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. The submitted ecological appraisal⁵ sets out that the structures to be demolished have negligible suitability to support a bat roost.
20. Based on what I observed on site and from the information before me, I am satisfied with the Council's conclusion that the buildings to be demolished are not likely to be used by bats, or indeed any other protected species. There is no conflict therefore with the protection of protected species requirements of the Framework, in addition to the Habitats Regulations.

¹ Application reference MO/2021/0886

² Application reference MO/2021/1530

³ Application reference MO/2022/1407

⁴ Stephen Whale, Landmark Chambers, London, 16 January 2024.

⁵ Bat Roost Potential Report by Sylvatica Ecology Ltd, dated 30 September 2022, additional information 27 November 2023

21. The proposal would result in an additional unit of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes. The proposal would also result in short-term economic benefits arising from the construction process. Economic and social benefits to this rural community are also likely to arise from the occupation of the unit. However, again, even if the development would make efficient use of previously developed land, given the quantum of development in this case, I give these matters limited weight in favour of the scheme.
22. The outbuildings to be replaced are limited in scale and typical of rural environments. Whilst no harm is identified in terms of character and appearance of the proposed dwelling, it is not demonstrated that the dwelling would enhance the form and character of the existing context.
23. The replacement of some areas of concrete hardstanding with domestic garden and permeable surfacing would improve rainwater run-off, however given the limited scale of development and any identified issue with rainwater run-off in this location, any such benefit would be modest.
24. The lack of harm identified in relation to matters such as privacy and impact upon the living conditions of neighbours are to be expected of any development and are not matters in favour of the proposal. It is also not demonstrated or substantiated how the proposal would reduce the incidence of crime.
25. It is common ground that the Council is not able to demonstrate a 5-year supply of deliverable housing sites. Paragraph 11d of the Framework is applicable due to the Council's housing supply position. It sets out that permission should be granted unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development proposed.
26. In this light, Footnote 7 of paragraph 11 of the Framework specifically refers to land designated as Green Belt. The policies in the Framework that protect the Green Belt provide clear reasons for refusing the development. The Framework does not therefore indicate in favour of the scheme.

Green Belt balance and conclusion

27. Paragraph 152 of the Framework says inappropriate development is harmful by definition and paragraph 153 identifies that substantial weight should be given to any harm to the Green Belt.
28. The Framework makes it clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations for planning permission to be granted. In this case, I find that although there are matters which provide limited weight in favour of the appeal, the weight of these other considerations does not clearly outweigh the totality of the harm arising to the Green Belt.
29. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case. The proposed development would not accord with CS Policy CS1, or the Framework in relation to Green Belt. There are no other considerations which

outweigh these findings. For the reasons given above, I conclude that the appeal should be dismissed.

B Phillips

INSPECTOR