



Appeal Decision

Site visit made on 18 October 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 NOVEMBER 2024

Appeal Ref: APP/Z3635/W/24/3341573

Land adjacent to 1 Hillview Cottages, Moor Lane, Surrey, Staines-upon-Thames TW18 4YX

- 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 Mohammed Kassim Amouri against the decision of Spelthorne Borough Council.
 - The application Ref is 24/00093/FUL.
 - The development proposed is the erection of a new detached dwellinghouse with associated parking provision and amenity space.
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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.
3. I have taken the site address from the Council's Decision Notice, which is more accurate than that provided in the application form.

Main Issues

4. 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 character and appearance of the area;
 - 3) the effect of the proposal on the living conditions of the occupiers of No. 1 Hillview Cottages;
 - 4) the effect of the proposal on the living conditions of future occupiers;
 - 5) 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 would be inappropriate development

5. The appeal site is a parcel of grassed land on the western side of Moor Lane, adjacent to the dwelling of 1 Hillview Cottages and set within the Green Belt. While the site is bounded to the south by tall trees and road infrastructure, and sits in proximity to residential development, it nevertheless provides a pocket of openness in the immediate area due to its currently undeveloped nature. The proposal seeks to erect a detached dwelling at the site.
6. 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. This is subject to exceptions. The Council does not believe that any exceptions apply in the current case, while the appellant refers to both Framework paragraph 154(d): the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and paragraph 154(g): limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. This is largely echoed by Policy GB1 of the Spelthorne Borough Local Plan 2001 (the Local Plan).
7. With regard to paragraph 154(d), as there is no building currently at the site, this exception would not be applicable to the proposal. Regarding paragraph 154(g), the appellant states that the proposal would be an example of limited infilling, but I have nothing substantive to suggest that the site is previously developed land. Even if I were to find the site to be previously developed land, it remains that to benefit from this exception the proposal must not have a greater impact on the openness of the Green Belt than the existing development. 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.
8. From a visual and spatial perspective, despite its modest dimensions and location adjacent to the garage and road bridge, the proposal would inevitably lead to a reduction in the openness of the Green Belt through the introduction of a building at the site, which is currently free from permanent, vertical built form. While wider views of the proposal would be limited when travelling from the north, it would be particularly prominent in the immediate vicinity of the site, and when travelling south along Moor Lane where it would notably disrupt the current openness at the site. As such, even noting the surrounding development and the backdrop at the site of tall trees and a road bridge, the proposal would have a greater impact on openness than the existing situation and the exception at paragraph 154(g) would not apply.
9. The proposal would be inappropriate development and harm to the Green Belt would arise from the loss of openness resulting from the proposal.

Character and appearance

10. Moor Lane is defined by a regular placement of dwellings on the western side. In the immediate surrounds of the appeal site these front Moor Lane and follow a largely consistent building line along the curve of the road, with frontages set back

from the street at similar distances. While front gardens are present, these are generally modest, with amenity space primarily provided via sizable rear gardens.

11. The proposal would be notably different to the established pattern of development. It would sit at an angle in the site and much of the amenity space would be provided at the front and side of the dwelling. Even noting the curve in the road, it remains that the proposal would also sit notably closer to Moor Lane than other dwellings. Rather than serving to bookend the current run of buildings it would, in the surrounding context, read as visually jarring and out of place. Although it would be a residential building, it would fail to respect or reflect the prevailing placement of other residential built form within the immediate locality. Overall, it would therefore appear at odds with the character of this section of Moor Lane.
12. For the reasons given, the proposal would result in harm to the character and appearance of the area. As such, it would fail to comply with Policy EN1 of the Spelthorne Borough Council Core Strategy and Policies Development Plan Document 2009 (the CS) and the Spelthorne Borough Council Design of Residential Extensions and New Residential Development Supplementary Planning Document (the SPD) insofar as it seeks to ensure development respects and makes a positive contribution to the streetscene and character of the area.

Living conditions – neighbouring occupiers

13. The proposal would result in an element of permanent built form located in close proximity to No. 1 Hillview Cottages. The introduction of the proposal in this position would inevitably alter the outlook experienced by occupiers of No. 1 Hillview Cottages, given the current, undeveloped nature of the site.
14. However, the proposal would be to the side of the dwelling at No. 1, positioned at an angle against the southernmost boundary of the appeal site. As such, it would not interrupt the current primary outlook from the front facing habitable room windows of No. 1, across Moor Lane to the bank of trees opposite. Given the limited direct views of the proposal from these habitable rooms, the proposal would not result in an undue sense of enclosure from inside this neighbouring dwelling. While the appellant also states the proposal would not have an impact on the living conditions of neighbouring occupiers with regard to light, this has not been alleged by the Council.
15. Nevertheless, the proposal would be particularly noticeable from the front external space of No. 1 Hillview Cottages, where the added bulk of built form in such proximity, along with the rising proposed boundary fencing adjacent to the current driveway, would overwhelm the appeal site and appear as overbearing when viewed from the neighbouring front space of No. 1 Hillview Cottages. This would serve to unduly impact the enjoyment and use of this space by its residents.
16. For the reasons given, the proposal would result in harm to the living conditions of occupiers of the neighbouring property of No. 1 Hillview Cottages. As such, it would fail to comply with Policy EN1 of the CS insofar as it seeks to ensure that development has a satisfactory relationship with adjoining properties.

Living conditions – future occupiers

17. The proposal would have an internal floor area of approximately 61.94sqm. It would be a 2-bedroom dwelling with the potential to house up to four occupants across two floors. Overall, the proposal would be of modest dimensions, particularly the living and kitchen space on the ground floor. When taking account of the

placement of necessary furniture to accommodate the day to day living of up to four occupants, the resulting useable floorspace and circulation space would be limited and unlikely to comfortably support the needs of a household of this size. As such, the proposal would represent unduly cramped living accommodation.

18. With regard to external amenity space, the Council states that the proposal would provide approximately 19.25sqm of garden area. In accordance with the submitted plans the primary external space would wrap around the front and side of the proposed dwelling, with two areas of soft landscaping to the north and east respectively, separated by an area of hard landscaping. Narrow areas of soft landscaping would also be present to the west and south of the dwelling.
19. Noting the proposed occupation level of the dwelling, this external space would be unlikely to comfortably support the day-to-day requirements of a household of this size, such as sitting out, hanging washing, or placing of residential paraphernalia. The soft landscaped areas are of modest dimensions and irregular shapes, separated by an area of hard landscaping that would likely be used as a driveway. This would limit their overall useability. In addition, the position of the external space to the front and side of the dwelling would, even acknowledging the proposed fencing, limit its actual and perceived privacy, further reducing the useability of the space. While nearby open space may exist, this would not represent private amenity space for future occupiers.
20. My findings in this regard are supported by the SPD, which states that a 4-bedroom, 2-person dwelling should have an internal floorspace of 83sqm and that 60sqm of external amenity space should be provided. It further suggests that only useable garden space to the side and rear of a property will be regarded as private. The main parties have also referred to national housing standards, which would require 79sqm of internal floorspace for a dwelling such as that proposed. While not policy, these figures further support my conclusions that the internal floorspace and external amenity space provided by the proposal would be substandard. As such, even acknowledging that future occupiers would have discretion as to whether to reside at the property, it remains that the internal and external space provided would fail to support adequate living conditions.
21. For the reasons given, the proposal would result in harm to the living conditions of future occupiers. As such, it would fail to comply with Policy EN1 of the CS and the SPD insofar as they seek to ensure development is of a high standard of design and provides adequate levels of internal and external floorspace.

Other considerations

22. The main parties disagree as to whether the appeal site represents common land, and whether the proposal would impact gas apparatus within or close to the appeal site. However, as I am dismissing for other substantive reasons, I have not explored these issues further.
23. The proposal would provide an additional dwelling in an established and sustainable residential location, adding to the housing mix and choice of the area and optimising the use of the site. This represents a benefit of the proposal. However, even acknowledging the contribution that small and medium sites can make to meeting housing requirements, and even if it were to also make use of previously developed land, due to the single dwelling nature of the proposal this benefit attracts only moderate weight.

24. The appellant has referred to other appeal decisions which have found that shortfalls in internal floorspace provision when compared with minimum standards have not led to substandard accommodation. However, I have limited precise details on these schemes or the extent of the shortfall. In any event, each scheme is assessed on its own merits such that this carries little weight.

Whether Very Special Circumstances Exist

25. The proposal would amount to inappropriate development in the Green Belt, and would cause harm to the openness of the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Even when taken cumulatively, the other considerations advanced in support of the scheme, and the proposed Framework changes and WMS, would not clearly outweigh the substantial harm to the Green Belt. My conclusions in this regard would not change even had I found no harm to gas pipelines or common land. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. In this regard, the proposal would also conflict with Policy GB1 of the Local Plan.

Planning Balance and Conclusion

26. The Council currently have a shortfall in housing land supply and housing delivery. 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 would not apply.
27. For the reasons given, the appeal should be dismissed.

C Rafferty

INSPECTOR