



Appeal Decision

Site visit made on 17 September 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2024

Appeal Ref: APP/H2265/W/23/3334210

Land adjoining the south side of 129-131 Butchers Lane, Mereworth, Kent ME18 5QD

- 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 Peter Edwards against the decision of Tonbridge and Malling Borough Council.
 - The application reference is TM/23/00244/FL.
 - The development proposed is the erection of a one and a half storey detached dwelling with link attached garage, new vehicular access and associated works.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The design and access statement submitted with the planning application indicated that it would be a self- or custom-build scheme. However, it was not described as such in the appeal evidence, and no means of securing that status (such as a planning obligation) was put before me. I have therefore treated it as being a proposal for market housing.
3. On 30 July 2024 the Government began a consultation on proposed changes to the National Planning Policy Framework ("the Framework"), including in respect of Green Belt policy, and I return to this in the "other matters" section below. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.

Main Issues

4. The appeal site is within the Green Belt, and within the Butchers Lane Mereworth Conservation Area ("the BLMCA"). Accordingly, I consider that the main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt having regard to the Framework and any relevant development plan policies, and its effects on the openness of the Green Belt;
 - The effect of the proposed extension on the character and appearance of the BLMCA; and
 - If the proposal would be inappropriate development, whether or not the 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 inappropriate development in the Green Belt; openness of the Green Belt

5. The appeal site is a plot of just over 0.2 hectares, on the edge of the village of Mereworth. It lies within the Metropolitan Green Belt, apart from a very small area at the north-east corner of the site. The proposed development is the erection of a new dwelling, with access to be taken from Willow Wents, a narrow lane at its southern edge.
6. Policy CP3 of the 2007 Tonbridge and Malling Core Strategy ("the TMCS") states that "national Green Belt policy will be applied generally to the west of the A228", an area which includes the appeal site. The Government attaches great importance to Green Belts and the fundamental aim of national Green Belt policy, as set out in the Framework, is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
7. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very specific circumstances, while Paragraph 154 indicates that, other than for listed exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. There are two relevant exceptions in this case; Paragraph 154 e) allows for "limited infilling in villages", while Paragraph 154 g) allows for the "limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development".
8. The appeal site is not within the defined settlement boundary for Mereworth, though this need not in itself preclude it from being considered "within a village" for the purposes of interpreting Paragraph 154 of the Framework. The essential points of the *Wood* judgment¹ to which the appellant drew my attention are that whether a site is within a "village", and whether a proposal constitutes "limited infilling", are matters which cannot be determined solely by reference to boundaries or policies in the development plan but are questions of planning judgement for the decision maker.
9. Mereworth does not have a traditional development pattern with a "village centre"; for the most part it has grown in a reverse "L" shape as ribbon development along The Street (running west to east) and Butchers Lane (running north to south). Some parts of the village (such as the northern stretch of Butchers Lane) have reasonably dense housing, at least by the standards of the area, on both sides of the road, while other parts (much of The Street, for example) have development only on one side. In other places (such as some southern parts of Butchers Lane) where there is little or no built development on either side of the road; thick hedgerow borders give these sections a very rural appearance and feel, and serve to break the village into discrete parts.
10. The appeal site is a vacant plot of land, to the rear of houses at 105-125 Butchers Lane which overlook it, and south of Nos 129 and 131. It was once used as a garden for the Queens Head public house on Butchers Lane, though

¹ Wood v SSCLG and Gravesham BC [2015] EWCA Civ 195

the pub has subsequently closed and been converted into private housing, and the garden use has ceased (though I return to this in considering the “previously developed land” question in a moment). The site is separated from the former pub car parking area at its northern edge by an open post and rail timber fence. The site had obviously been recently cleared of a good deal of vegetation at the time of my site visit meaning that it had the appearance of rough paddock, though I saw little to illustrate the close physical or functional relationship with the pub or other village buildings more generally it may once have had.

11. Public views into the site are primarily possible from Willow Wents. There is a relatively recent housing development on the south side of Willow Wents but, while that visually and functionally forms part of the village it does not follow that the same is true of the other side of the road. The appeal site is physically separated from the larger fields to its west by mature vegetation, though when travelling along Willow Wents I saw little significant visual differentiation between them – the low brick wall marking the southern boundary of the appeal site was largely overgrown by vegetation at the time of my visit. Again, I note that it is not uncommon for a road or lane to form a development or settlement boundary in this way (whether in a development plan or “on the ground”), and from this viewpoint the overall impression I got was of a piece of land more closely related in appearance and function to the fields and paddocks which help to break up the form of Mereworth, rather forming part of the village itself. I therefore find that, for the purposes of applying national Green Belt policy, the appeal site is not within the village.
12. Neither the development plan nor the Framework provide a definition of “limited infilling”. The appellant suggests that it is “generally considered to involve the filling in of gaps between existing buildings”, which is not an unreasonable definition (though it does not address the question of what “limited” might mean). The size of the site and the proposal for a single dwelling mean that the scheme could sensibly be described as “limited”. As I have found that the site is not “within” the village, however, the development would not fall within the scope of the exception provided for by Paragraph 154 e) of the Framework. I therefore turn to the exception relating to previously developed land in Paragraph 154 g), which does not require the site to be within a village.
13. Planning permission was granted in 1991 for the use of the appeal site in relation to the Queens Head pub². The Council’s officer report suggested that there was no evidence of that development having been carried out, but as it was described at the time as “retrospective” it seems more likely than not that it had been, and that the site, or at least part of it, is therefore previously developed land in the terms set out in the Framework. However, Paragraph 154 g) also requires an assessment of effects on openness to be made.
14. The baseline for considering the effect on openness, which is the absence of development and which has both spatial and visual aspects, must be what currently exists at the site. There are currently no buildings on the appeal site, anything relating to its previous use as the pub beer garden (which in any event the wording of the permission indicates amounted to little more than a climbing frame and tables) having been removed. The proposed development

² LPA Ref: 91/11160/FUL – “Retrospective: Change of use from grazing land to children’s timber climbing frame with associated safety surface enclosure and 3 no. picnic tables to provide beer garden.

would introduce a one and a half story house on an L-shaped footprint towards southern end of the site, as well as a new access way from Willow Wents. It would therefore reduce the spatial openness of the Green Belt. The dwelling would be seen from housing within the village, as well as in public views from Willow Wents, so there would also be a loss of visual openness. While the loss of openness would be localised, and small in the context of the Green Belt as a whole, the Framework is clear that substantial weight should be given to any harm to the Green Belt.

15. I have found that the appeal site is not within the village, and the development does not therefore fall within the scope of the exception provided for by Paragraph 154 e) of the Framework. Although at least part of the site is previously developed land, as a result of its effect on openness the proposed development would not fall within the exception described in Paragraph 154 g) of the Framework. It would be inappropriate development in the Green Belt. By definition, it would therefore be harmful to the Green Belt, and this is a matter to which I afford substantial weight in the planning balance. The proposal would also conflict with Policy CP3 of the TMCS which seeks to prevent inappropriate development in the Green Belt.

Character and appearance

16. The site is wholly within the BLMCA. I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, Paragraph 195 of the Framework states that they should be conserved in a manner appropriate to their significance. It goes on to advise at Paragraph 206 that any harm or loss requires clear and convincing justification, and at Paragraph 208 that any harm that is less than substantial must be weighed against the public benefit of the proposal.
17. I have been provided with very limited information about the BLMCA, though its small size – it covers a relatively short length of Butchers Lane – means that I was able to see it all during my site visit. It includes the houses at 105-125 Butchers Lane, the former Queens Head, and the dwellings at 127-131 Butchers Lane. With the obvious exception of the former pub, which is a large building, these are modestly-sized and closely-spaced buildings on small plots, and it is these which principally define the surroundings of the appeal site. The recent housing on Willow Wents would have a close spatial and visual relationship; although those buildings lie outside the BLMCA, their generally modest scale and small plot size means that they too are in keeping with the prevailing character of this part of the conservation area.
18. By contrast, the appeal scheme is for a substantial dwelling on what would be a relatively very large site. I agree with the appellant that it would not appear cramped or overdeveloped on the site; if anything, its size and form, not least the attached double garage, would give it a sprawling appearance which would be at odds with the character of most of its immediate neighbours. It would also introduce built form onto a site which at present brings the countryside into the village, as I have described in the previous section. These factors would cause some harm to the character and appearance of the BLMCA.
19. There are two other larger houses within the BLMCA (Herne Cottage, a larger detached house at the corner of Butchers Lane and Willow Wents, and Herne House, a very large detached dwelling in a substantial plot at No 91 Butchers

Lane). However, these are visually separate from the appeal site and would play little part in setting its context. While the character of the wider village is very varied, this is of little relevance when considering the BLMCA specifically.

20. The visual impact of the dwelling would be somewhat mitigated by the fact that it would be on one and a half, rather than two, storeys. The proposed materials, including rendered stock brick, timber featheredge boarding, and plain clay roof tiles, would be in keeping with the local vernacular. Nevertheless, for the reasons I have already set out in paragraph 18 above, I consider that there would be some harm caused to the character and appearance of the BLMCA. In the Framework's terms, the harm to the significance of the conservation area as a designated heritage asset arising from the proposal would be less than substantial.
21. There would be economic and social benefits arising from the scheme, by providing an additional dwelling which could come forward relatively quickly, and by providing some local employment and purchasing during the construction phase. Given the size of the scheme such public benefits as might arise would be small, and they would therefore carry only modest weight in favour of the scheme. This would not outweigh the harm to the heritage asset, to which I must attribute great weight.
22. I therefore conclude that the proposed development would conflict with Policy CP24 of the TMCS, and with Policy SQ1 of the 2010 *Managing Development and the Environment* Development Plan Document. Together, and among other things, these policies seek to ensure that the design of development reflects its surroundings and local distinctiveness. The proposal would also conflict with the provisions of the Framework which seek to conserve and enhance the historic environment.

Other considerations

23. The appellant drew my attention to a grant of planning permission for four dwellings in the Green Belt on London Road, Addington, in 2018³. However, in that case there appeared to be no doubt on the part of the Council either that it was "limited infilling within a village", and thus one of the exceptions provided for by the Framework, and that there would be no other harm to the character or appearance of the area. Given my findings as set out above, it is not therefore comparable to this case, and that grant of planning permission does not weigh significantly in favour of this appeal scheme.
24. It is common ground between the main parties that the Council cannot demonstrate a 5-year supply of deliverable housing sites. A single additional dwelling would make a limited contribution to tackling the housing undersupply in the borough. The economic and social benefits arising from the scheme would, as I have already described in paragraph 21, carry modest weight in favour of the proposal.

Other Matters

Proposed changes to the Framework

25. Proposed changes to the Framework include the "previously developed land" exception set out in Paragraph 154 g) (and summarised in paragraph 7 above).

³ LPA Ref: TM/18/01338/FL

The consultation draft of proposed changes indicated that the requirement for redevelopment to “not have a greater impact on the openness of the development than the existing development” would be removed, instead requiring only that it would “not cause substantial harm” to openness.

26. I have had regard to the proposed changes to the Framework, and to the related Written Ministerial Statement made by the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government on 30 July 2024⁴ which set out the Government’s rationale for them, as material considerations. However, although the consultation on the proposed changes has closed there remains at this time considerable uncertainty over the final wording, and the implications of, any revisions to the Framework. I am therefore able to give the proposed changes only limited weight at this point.

Planning Balance and Conclusion

27. The proposed development would be inappropriate development in the Green Belt, and would conflict with Policy CP3 of the TMCS which seeks to protect the Green Belt. It would also cause moderate harm to the openness of the Green Belt. These are matters to which I attach substantial weight, as required by Paragraph 153 of the Framework. It would also cause harm to the character of the BLMCA, and would conflict with the development plan in this respect. Again, the Framework is clear that great weight should be given to the conservation of heritage assets.
28. While the Council cannot demonstrate a 5-year supply of deliverable housing sites, Paragraph 11 and Footnote 6 of the Framework are clear that the “tilted balance” in favour of “sustainable development” is not engaged if the application of policies in the Framework to protect areas of particular importance provides a clear reason for refusing the development proposed. These areas include land designated as Green Belt, and designated heritage assets. In this case, the harm to the Green Belt and to the BLMCA which I have identified provides a clear reason for refusing the proposal. The “tilted balance” is therefore not engaged.
29. I have also considered and weighed the matters in the scheme’s favour which have been put to me by the appellant. The substantial weight to be given to the Green Belt harm, and the great weight to be given to harm to the BLMCA mean that the harm arising from the development identified above is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
30. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector

⁴ Online at <https://questions-statements.parliament.uk/written-statements/detail/2024-07-30/hcws48>