

Appeal Decision

Site visit made on 10 September 2024

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Appeal Ref: APP/M2270/W/24/3339552

1 Hungershall Park, Tunbridge Wells, Kent, TN4 8ND

- 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 Ian Marshall against the decision of Tunbridge Wells Borough Council.
 - The application Ref 23/02846/FULL, dated 20 October 2023, was refused by notice dated 19 December 2023.
 - The proposed development is the erection of a detached dwelling, hard and soft landscaping and access from Hungershall Park.
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Preliminary matters

1. On 30 July 2024 the Government published a draft National Planning Policy Framework for consultation and Written Ministerial Statement: Building the homes we need. I asked the main parties for comments on these matters.

Decision

2. The appeal is dismissed.

Main issue

3. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt; 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 necessary to justify the proposal in the Green Belt.

Reasons

Green Belt

4. The appeal site lies within the Metropolitan Green Belt. The development plan for the area is the Tunbridge Wells Core Strategy (CS) 2010 and the Tunbridge Wells Borough Local Plan (LP) 2006.
 5. There is no dispute between the main parties that the appeal site, which occupies a rear garden not within the built-up area, constitutes previously
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developed land in accordance with Annex 2 of the National Planning Policy Framework (the Framework). I agree.

6. The Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt. Exceptions to this are listed in paragraph 154 of the Framework and this includes 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.
7. The openness of the Green Belt has a visual aspect as well as a spatial aspect. In this regard, the appeal site and its immediate surroundings are characterised by open garden space associated with the dwelling at the appeal site address. The presence of several small-scale domestic outbuildings and structures does not notably diminish the site's spaciousness, which is characterised by an overriding absence of built form.
8. Whilst the dwelling would comprise a single-storey construction set into the existing sloping landform, and the design shows a green roof, the proposals would see the erection of a building that would fill most of the width of the plot. There would be lowering of ground levels on the sloping site, and a new access road with circulation areas which would involve further excavation works in part to address changing site levels.
9. I acknowledge that impacts beyond the immediate environs of the site would be limited due to intervening screening and the scheme's height relative to the surrounding garden walls. Be that as it may, and despite no adverse visual impacts, I find the scale of the new building and works to the land would be significant. It would bring about an amount of new built development onto the site which would have a substantially greater spatial impact in a location that currently does not see such extensive development. Furthermore, the location of the proposed house sits a distance from the main house, and adjoins open land to all boundaries, and so the openness of the site is a continuum of land that is similarly open.
10. Thus there would be an adverse spatial impact due to the scale of development in this location. This would lead to a greater impact on the openness of the Green Belt than the existing development on the appeal site, and hence conflict with paragraph 154 of the Framework. Therefore the proposal would be inappropriate development that is, by definition, harmful to the Green Belt. In accordance with the Framework I attach substantial weight to this harm.

Other considerations

11. The appeal site lies within the Tunbridge Wells Conservation Area. I have a duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area. The Area sees large houses set in wooded and open land that rises from the town centre, and the significance as a heritage asset derives from the relationship between housing and the open areas. The proposed dwelling would be largely screened from views and sit within the rear garden of the existing property, and these matters mean the semi-rural character would be preserved. Hence there would not be any effect on the significance of the heritage asset. The absence of any harm weighs neither for or against the proposed development.

12. 2 Hungershall Park is a Grade II listed building. Under s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a duty to have special regard to the desirability of preserving the setting of a listed building. The list description for the property identifies the architectural interest of the building, which stands in spacious grounds with limited visibility due to the siting of the building and intervening vegetation. The design of the proposed house and distance from that building ensure there would not be any harmful impact on the architectural and historic interest of the listed building, and hence no effect on significance as a heritage asset. The absence of any harm weighs neither for or against the proposed development.
13. Paragraphs 131 and 135 of the Framework require high quality, beautiful and sustainable buildings, and for development which is visually attractive and sympathetic to local character. These objectives are also contained in Core Policy 5 of the CS and Policies EN1 and EN25 of the LP. The house is of a high standard of design, and the Design Statement that accompanied the application to the Council demonstrates the careful attention the architects paid to the site and wider area. Thus, it is a policy-compliant scheme in terms of design and this matter does not weigh in favour of the proposal. However, I do not consider the design is outstanding or innovative in a way that may help raise design standards: the Design Statement references houses of similar design approach as a precedent, whilst the Heritage Statement also references contemporary architecture of a broadly similar form in the local area. The appellant has drawn my attention to other appeals where Inspectors have concluded that the design quality in those instances was exceptional, having regard not only to design but context. I have assessed the current scheme on its own merits and there are no meaningful parallels which indicate I should reach the same conclusion in this case.
14. The Design Statement sets out the measures to be incorporated within the building to ensure an energy efficient house and for the incorporation of renewable energy provision. Whilst all such measures are to be supported, it is not apparent that any such measures are particularly outstanding or innovative to promote high levels of sustainability. I attach limited weight to this matter.
15. The proposal would lead to an additional dwelling, which is said to be for a self-build property, where the Council has a deficiency in five-year housing land supply. The Written Ministerial Statement recognises the importance of delivering housing in areas of need. Whilst an additional dwelling is welcome in light of the shortfall in supply, the contribution of one house to that shortfall is small, and hence I attach limited weight to this matter.
16. The draft Framework is a material consideration, though as a consultation document that may change the weight I attach is limited. In any event, I have found the proposal would have a substantial harm to openness. The fundamental aims of Green Belt policy remain unaltered, and so the draft Framework does not change my earlier conclusions.

Planning balance

17. The development would result in a significant impact on openness and a greater impact on openness than existing. In accordance with the Framework, substantial weight is attributed to any harm to the Green Belt.

18. Core Policy 2 of the CS states that development should accord with national planning provisions. Saved Policy MGB1 of the LP states that planning permission will not be granted other than for specified developments. This does not embrace all the instances set out in the Framework, including the redevelopment of previously developed land. Hence saved Policy MGB1 is inconsistent with the Framework and reduced weight is attached to that Policy; I attach greater weight to the Framework and the provisions of paragraph 154. Irrespective of the inconsistency of Policy MGB1 with the Framework, the proposal is nevertheless inappropriate development in the GB which is a matter which carries substantial weight.
19. Limited weight is attributed to the scheme's contribution to housing supply and self-build provision. Limited weight is attached to the energy efficiency and renewable energy provision in the dwelling.
20. The Framework advises that 'very special circumstances' to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. In this case, when taken together, the overall benefits would do not clearly outweigh the totality of harm. Consequently, the very special circumstances necessary to justify the development do not exist. This provides a clear reason for refusing planning permission and the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

22. For the reasons given, the conflict with national and local planning policy means that the appeal fails.

C J Leigh

INSPECTOR