

Appeal Decision

Site visit made on 2 February 2021

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2021

Appeal Ref: APP/K2230/W/20/3258951

Land adjacent to the See-Ho PH, Pear Tree Lane, Shorne Ridgeway, Kent DA12 3JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Julian Wood against the decision of Gravesham Borough Council.
 - The application Ref 20200339, dated 2 April 2020, was refused by notice dated 29 May 2020.
 - The development proposed is two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline, with all matters, save for access, reserved. I have considered the appeal on the same basis and assessed accompanying imagery as merely indicative insofar as it may refer to the reserved matters.
3. The new local plan is at a very early stage of development, and has not been publicly examined, which limits the weight I can accord its policies.

Main Issues

4. The main issues are:
 - i) whether the proposal would be inappropriate development in the Green Belt, having regard to the development plan and the National Planning Policy Framework (the Framework);
 - ii) if it is inappropriate development, its effect on the openness of the Green Belt;
 - iii) its effect on the landscape character of the area, with particular regard to the Shorne Woodlands Landscape Area;
 - iv) whether it would provide a suitable site for housing, having regard to its proximity to services and facilities; and,
 - v) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
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Reasons

Inappropriate development in the Green Belt

5. It is common ground that the appeal site lies outside the boundary line of the rural settlement of Shorne Ridgeway and in the Green Belt, as drawn on the Policies Map of the Gravesham Local Plan Core Strategy 2014 (CS).
6. CS policy CS02 supports development within rural settlements which are inset from the Green Belt. Outside those settlements, development will be supported where it is compatible with national policies for protecting the Green Belt and with the policies in the development plan. The government attaches great importance to Green Belts. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 145 of the Framework indicates that new buildings in the Green Belt are inappropriate development unless they fall within a list of exceptions. One of these, limited infilling in villages, is the exception claimed by the appellant.
7. The Council accepts that, as far as paragraph 145 is concerned, the settlement of Shorne Ridgeway, as drawn on the Policies Map, may be regarded as a village. The appellant considers that such lines are blunt instruments to determine the confines of a settlement; what is on the ground being more relevant. In any event, the CS indicates, in paragraph 4.2.6, that settlement boundaries do not define the full extent of each settlement. Moreover, in the 2015 Court of Appeal judgement¹ concerning an appeal on this site, it was common ground that the boundary of a village defined in a local plan may not be determinative for this purpose.
8. I saw at my visit two, distinctly different patterns of development in this area. The first, characterised by more built-up sections of development, is concentrated around the lower section of Tanyard Hill, with spurs, in ribbon form, running from it east and west onto The Ridgeway and reaching into Pear Tree Lane. This pattern of development has a finely textured, ordered urban grain, the houses commonly standing relatively close to each other. There are strong, repeated rhythms in the siting and alignments of the houses, which tend to have been set parallel to road lines, share relatively compact forms, and display generally close spacing.
9. The second pattern of development has a markedly looser grain of development. The houses appear more scattered, and their positioning in relation to one another, more sporadic. The houses stand in generally larger plots, where the ratio of building footprint:plot area is far smaller. The front building lines of the houses are often set substantially back from the road. With little defining alignment among these houses, their siting twists and turns according to the topography of the land, to the trees and hedgerows in their landscape, or to the will of idiosyncrasy.
10. I appreciate that not every distinguishing feature I have highlighted above may be shared universally in each area. Housing here has developed incrementally over many years and has grown around the topographic, climatic, and economic constraints of its time. Nonetheless, my observations identify two areas with distinctly different patterns of development which are clear to see on the ground.

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

11. The built-up section that reaches into Pear Tree Lane, after a field and stables, halts abruptly on the north side of the lane at the end of a row of bungalows. The landscape becomes more pastoral with small, non-residential, rural buildings and open fields leading to woods beyond, on the north side. On the south side of the lane, the built-up section ends at the See-Ho public house, its open car-park forming a substantial gap between the public house and the appeal site. To the east of the appeal site, on the south side, stands a large house in a large plot. This house is set further back into the plot than the back boundary of the appeal site, its spacious landscape character reflecting the wider-textured grain of the more rural pattern of development which continues sporadically, between sections of woodland, eastwards along the lane.
12. Taking into account these two distinctly different patterns of development which I saw on the ground, the appeal site, which contains only a limited amount of storage, falls squarely within the area characterised by loose-grained, sporadic, scattered development which lies outside the settlement. As the appeal site lies outside the settlement, the proposed development cannot therefore be considered as an exception to inappropriate development as described in paragraph 145(e) of the Framework.
13. Even if I had concluded that the site were within the settlement, which I do not, and even noting that the Council accepts the proposed form of development as being limited, the development could not be described as infilling. Neither the Framework nor the CS define 'infilling'. The appellant cites the Cambridge Dictionary definition of infill, as '*the development of new houses etc. on land between other buildings in already developed areas.*' The appeal site fronts directly onto Pear Tree Lane. The site to one side contains a wide, open car-park. The site to the other is occupied by a house that is set further back from the road than the back boundary of the appeal site. The houses proposed could not therefore stand between other buildings, but between an open car-park and the open space of a very large garden. The development would not reflect the Cambridge Dictionary definition.
14. The appellant also refers to another definition of infill, one that is often used in cases concerning limited infill in a village and referred to in the dismissed appeal² on this site in 2015. This is '*the development of a gap in an otherwise built-up frontage*'. Quite simply, there is no built-up frontage beside the appeal site between which the development could infill. For this reason too, the proposal would not meet the test in paragraph 145(e).
15. I acknowledge that the 2013 appeal decision³ on this site found that the built-up area appears to start some distance to the east of the appeal site, and that the development would not distort further the definition between village envelope and surrounding countryside. However, my finding on this matter accords with the most recent appeal decision⁴ on this site, in 2015, which followed the quashing of the 2013 decision.
16. I note the formal-looking, walled entry to the house to the east of the site, Fairwinds, for which a retrospective planning application⁵ was refused in 2013 for being out of keeping with the rural Green Belt characteristics and soft boundaries

² Appeal ref: APP/K2230/A/12/2186760

³ Appeal ref: APP/K2230/A/12/2186760

⁴ Appeal ref: APP/K2230/A/12/2186760

⁵ LPA ref: 20130368

along Pear Tree Lane. However, its design does not suggest the plot is in the settlement; equally grand and formal designs form the entrances to other houses along Pear Tree Lane, and they stand an even greater distance outside the settlement than Fairwinds. Moreover, front enclosures are not a landscape characteristic which distinguishes the patterns of development either inside or outside the settlement; each area borrows features from the other, with little consistency in application. Similarly, while the appeal site is within a 30mph speed limit, some sections of the lane a substantial distance beyond the settlement are included within it. The speed limit appeared to me to be more related to road width, visibility, junctions, and transport safety than to settlement boundaries.

17. The appellant has referred to numerous appeal decisions regarding limited infilling in villages. I have not been provided with the full details of these cases, only an aerial photo and the decision letter, in most instances. I cannot therefore be sure that there are direct parallels between their circumstances and the situation in this case. This is especially relevant where decisions may turn upon the on the ground assessment, and where any similarity in physical circumstances is important.
18. Nonetheless, the site in the appeal decision⁶ in Cheshire East lay between two residential dwellings and the size of the plots were commensurate with the dwellings either side, reflecting the established pattern of development. Rather than dwellings, an open car-park and a garden lie beside this site. While I have found the site in this case to lie close to the settlement, it is more visually related to the land beyond it than the land within it. In the Solihull appeal⁷ there was no disagreement that the site lay within the village. The overall street scene was described as a continuous form of built development along the lane. The site formed part of a gap in a frontage that the proposal would infill. This is incomparable to the site in this case.
19. The Inspector in the St. Alban's City decision⁸ identified the change in character as a very brief, and localised variation within the character of a single built-up area. He found the site to be a well-defined gap between 2 Radlett Road and Minster Court. The site in this case is not a momentary variation in a single built-up area. It stands squarely within a completely different pattern of development, and its filling conditions are quite different. The site in the decision⁹ in Chorley was part of a clearly identifiable frontage of buildings with a dwelling to one side and a barn to the other, unlike in this case where I have identified the distinguishing characteristics of the different patterns of development, and where the shift between them runs.
20. In the appeal in Three Rivers¹⁰, the Inspector described that site as being located within a ribbon of residential development, closer to the centre of the village than the outlying properties which were also within the settlement. He found it a gap between two houses and their outbuildings. In this case, the relative position of the site is quite different, and it lies between an open car-park and a garden. The conditions against which infilling is considered are quite different. In the appeal¹¹ in East Hertfordshire, for which the aerial photograph

⁶ Appeal ref: APP/R0660/W/16/3156493

⁷ Appeal ref: APP/Q4625/W/17/3168927

⁸ Appeal ref: APP/B1930/W/19/3225543

⁹ Appeal ref: APP/D2320/W/16/3154595

¹⁰ Appeal ref: APP/P1940/W/17/3187494

¹¹ Appeal ref: APP/J1915/W/19/3230243

is highlighted as being assumed, the site lay between a dwelling within a cluster of houses along the lane on one side, and to the other side a house in extensive grounds. Considering the proximity of these neighbouring dwellings, the Inspector found the site to be part of the built-up area. Given its location amongst a group of dwellings he considered the development to be infilling. These are quite different physical circumstances to the site in this case.

21. In the decision¹² in Staffordshire Moorlands, the Inspector found that proposal would form a continuation of development on the north side of the lane and read as part of the village whereas the site in this case reads as part of the land outside the settlement. That site appears to be enclosed on both sides by buildings which are part of the built-up area whereas in this case the site is bounded by a garden and an open car-park. There are no infilling parallels to draw.
22. The Cheshire East appeal¹³ describes the site forming part of the linear pattern of development extending from the main built-up area, whereas the site in this case falls within the pattern of development outside the settlement. That proposal would provide continuity to the built form along Frog Lane, whereas in this case there are no buildings beside the site whose built form could be continued. In the appeal¹⁴ in Dacorum, the Inspector agreed with the finding of the Inspector in the previous appeal that the gap lay in a developed area, representing an infill, referring to the group of dwellings to the west, between the site and the open countryside, and the setting more enclosed by existing residential development. These are quite different physical circumstances to the site in this appeal.
23. In the appeal¹⁵ in Cheshire West & Chester, the site there lay between the primary frontage of development lining the main road and development already set substantially back from it in three tiers, whereas the site in this case fronts directly to the main road. The Inspector found that the development of other properties along West View Road was relatively continuous and that the development would fill the appeal site and much of the undeveloped gap on that stretch of the road. Again, different physical circumstances to the appeal site.
24. On the evidence submitted, I can draw no direct parallels from these appeal decisions to the circumstances and conclusions in this case, which I have considered carefully on the ground, and which are peculiar to this particular site. Moreover, my conclusion on infilling accords with the decisions of the Inspectors in three appeals on this site, including the most recent.
25. I conclude on this issue that, in accordance with what I saw on the ground, the appeal site does not lie within the settlement of Shorne Ridgeway. The proposed development cannot therefore be considered an exception to the construction of new buildings to be regarded as inappropriate development as provided in paragraph 145(e) of the Framework, i.e. limited infilling in villages. Nor would the proposed development amount to infilling. It cannot therefore be considered the exception as described in paragraph 145(e). It would conflict with CS policy CS02 and should be regarded as inappropriate development, which is by

¹² Appeal ref: APP/B3438/W/18/3214689

¹³ Appeal ref: APP/R0660/W/18/3211980

¹⁴ Appeal ref: APP/A1910/W/18/3205498

¹⁵ Appeal ref: APP/A0665/W/20/3247387

definition, harmful to the Green Belt, and to which paragraph 144 of the Framework indicates that substantial weight should be given.

The openness of the Green Belt

26. The Framework indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It describes the essential characteristics of Green Belts as their openness and their permanence. While there is no definition of 'openness' in the Framework, it is commonly understood as the absence of built or otherwise urbanising development.
27. I have taken into account that layout and scale are reserved matters. The appellant's constraints plan indicates that the development could incorporate space around each house, and that eaves and ridge heights could be relatively low. However, the appeal site contains only a short shipping container, a couple of small timber sheds, some water butts, and a few piles of building materials. The development of two dwellings would have a far greater impact than this, diminishing the openness significantly. The proposed development would therefore have a harmful effect on the openness of the Green Belt.
28. I appreciate that the tall, evergreen hedge partially screens the site from the lane. While it would obscure some views of the new houses, because of the bulk and height of the houses and their visibility through the access, it would not sufficiently mitigate their visual impact on the openness of the Green Belt. The reduction in openness from the development would be permanent, and it would compromise the objectives of the Framework in keeping Green Belt land permanently open.

The landscape character of the area

29. The Council refers to the Gravesham Landscape Character Assessment 2009 (LCA). It identifies the extent of coppice woodland in this area as contributing significantly towards local distinctiveness, the combination of undulating landform and tree cover bringing an enclosed character to the landscape. It describes the traditional village centres, including Shorne Ridgeway, as being distinct, and promoting a strong sense of place.
30. Given that the site is surrounded by plots containing buildings and it does not contain woodland, its development for housing, including the paraphernalia of residential occupation, would not undermine the contribution of woodland to the distinctiveness of the area as described by the LCA.
31. I have already described the two patterns of development in the area, the tighter-grained, more built-up sections within the settlement, and the looser-grained more rural character of development beyond it, and to which the appeal site belongs. I appreciate that layout and scale are reserved matters. Also, the appellant's plan indicating the developable area of each plot is only indicative. Nonetheless, given the size of the site, and even allowing for dwellings of very modest footprints, the development would in effect place development which is more typical of the tight-grained, built-up sections within the settlement of Shorne Ridgeway on a site clearly belonging to the looser-grained, more rural character of development beyond the settlement.
32. The effect of this misplacement would be to diminish the spacious character of the landscape outside the settlement, which includes development which generally shares far smaller footprint:plot area ratios than two dwellings on the

appeal site. I saw that the character of the landscape between this settlement and its neighbours is finely balanced between the generally very spacious areas of land occupied by houses, and the rural character of the countryside, epitomised here by the large tracts of coppiced woodland and the agricultural fields between them.

33. Spaciousness is a characteristic of the pattern of development which makes the landscape outside the settlement distinctive, and which distinguishes it from the character of development within the settlement. Because of its diminishing effect on the spacious character of the landscape, the proposed development would undermine that distinction, as noted in the LCA, and weaken the strong sense of place which it underpins.
34. I appreciate that the Framework promotes the development of under-utilised land in paragraph 118(d), but it also indicates in paragraph 127 that development should be sympathetic to local character, including the surrounding built environment and landscape setting, whose character this proposal would harm.
35. I conclude on this issue that the development would conflict with CS policies CS12 and CS19 which protect landscape character, and which require development to conserve and enhance the character of the local built and natural environment and to integrate well with the surrounding local area. It would harm the landscape character of the area with particular regard to the Shorne Woodlands Landscape Area. To this harm I attribute substantial weight.

Suitability of the site for housing

36. The Council considers that lying in the countryside, outside the boundary of any settlement, the site is an unsustainable location for housing. It refers to the Framework which indicates in paragraph 79 that decisions should avoid the development of isolated homes in the countryside. However, given the proximity of neighbouring houses to the appeal site, some of which are inside the settlement and some outside it, as well as the number of houses sited off or along Peartree Lane outside the settlement boundary, the location of the proposed dwellings cannot be described as isolated as set out in *Braintree District Council v SSCLG & Ors*¹⁶, which post-dates the 2015 appeal decision¹⁷ on this site.
37. CS policy CS01 indicates a settlement hierarchy in Gravesham based on the availability of services and facilities in the settlements. CS policy CS02 prioritises development in the urban area as a sustainable location for development. Shorne Ridgeway falls within the lowest tier, as an other settlement. Its services and facilities are limited and appear to be centred around the public house. However, there are 2 settlements close to the appeal site, Higham and Shorne, which are classified as second tier and fourth tier settlements, respectively. I saw that these provide a range of facilities and services including post office, convenience shops, public houses, churches, surgeries, pharmacy, greengrocer, take-aways, and hairdressers.
38. I appreciate that the distance to Higham may be more than many consider walkable. More significantly, the lanes leading to both these better serviced settlements are largely unlit, are hilly, relatively narrow and without footways.

¹⁶ Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin)

¹⁷ Appeal Ref: APP/K2230/A/12/2186760

These factors would deter parents with children, older people, or those with disabilities from walking or cycling to these settlements, making future occupiers of the proposed development to be more likely to rely on the car.

39. However, both Higham and Shorne are served by buses that stop in Shorne Ridgeway, with the 416 and 417 continuing to Gravesend, which is connected to national rail, and by a new service 311 running since the last appeal which runs from Meopham to Lower Higham. While I suspect that the frequency of these services may be limited, neither party has provided me with timetables for them. There is no evidence to suggest that the bus services through Shorne Ridgeway do not provide a suitable alternative to private transport for future occupiers of the development to reach services and facilities.
40. Taking all these factors into account, and without any evidence to the contrary on public transport, I find that the site would provide a suitable site for housing, having regard to its proximity to services and facilities and the Framework's social and environmental objectives of sustainable development.
41. I find no conflict from the proposal with CS policies CS01 and CS02, nor with paragraph 103 of the Framework which seeks to actively manage patterns of growth in support of promoting sustainable transport, but which also recognises that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas. While the suitability of the site for housing and the accordance of the proposal in this regard with the development plan is acknowledged, this is a neutral factor that does not weigh in support of the proposal.

Other considerations

42. The appeal site lies within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar Site, an important place for rare, vulnerable, or migrating birds. The proximity of the appeal site means that it cannot be excluded that the development would not have a likely significant effect on the SPA, either alone, or in combination with other plans or projects. I note that the appellant has made a payment to the Council in respect of the strategic access, management, and monitoring of the SPA. However, neither he nor the Council has carried out an Appropriate Assessment, and there is insufficient information submitted for me to undertake one. Notwithstanding this, there is no need for me to consider the implications of this further, as I am dismissing the appeal for other reasons.
43. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing sites. The development plan is also silent on the provision of self-build housing. Therefore, in accordance with paragraph 11 d) of the Framework, the tilted balance may come into play. However, land designated as Green Belt is an area of particular importance protected by policies in the Framework. In applying its policies concerning the Green Belt, I have found clear reason for refusing the development. Accordingly, the tilted balance does not apply, and the Framework is not a material consideration in this context to indicate a decision other than in accordance with the development plan.
44. Two dwellings would be a small boost to housing supply, representing a modest social benefit, particularly in the light of the housing needs survey. The Council's information on people wanting to self-build is dated, but it does demonstrate that there is demand here for rural, self-build, and custom house building, which

is completely unmet. The appellant is willing to be bound by an undertaking to secure the housing as self-build. The two self-build dwellings in this proposal would therefore be two more than the Council has permitted to date.

45. Though the number of dwellings proposed is modest, in an area where there are no self-build or custom dwellings, the development would help to achieve the government's objective to diversify the housing market and increase consumer choice. The Council accepts that it does not have a 5-year supply of deliverable housing sites, a shortfall which this proposal would help to reduce. Notwithstanding the reserved matters, were small bungalows developed, these would have accessibility advantages to all sections of society, a social benefit, their size also offering choice to those seeking smaller dwellings here. While all these social benefits of the housing are material considerations in favour of the proposal, because of the modest number of dwellings proposed, I attach only moderate weight to them.
46. Construction work would bring short-term services and manufacturing benefits to the wider economy. The future occupiers would be likely to use local services and facilities and thereby contribute to the local economy, bringing a long-term, economic benefit. While I recognize these economic benefits, because of the modest number of houses and the scale of the development, I attach only moderate weight to them, too.

Planning Balance

47. I have found that the proposed development would be inappropriate development in the Green Belt, reducing its openness and compromising the objectives of the Framework in keeping Green Belt land permanently open. While the site would provide a suitable site for housing having regard to its proximity to services and facilities, the development would harm the landscape character of the area with particular regard to the Shorne Woodlands Landscape Area.
48. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It requires that substantial weight be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
49. For the reasons given, the weight of all the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would conflict with CS policies CS01, CS02, CS12 and CS19 and the objectives of the Framework.

Conclusion

50. For the reasons given above, the appeal is dismissed.

Patrick Whelan

INSPECTOR