



Appeal Decision

Site visit made on 29 August 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2023

Appeal Ref: APP/K2230/W/23/3318266

Land North of Wildacre, Sole Street, Cobham, Gravesend, Kent DA13 0XZ

- 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 David Dean of Robinson Escott Planning against the decision of Gravesend Borough Council.
 - The application Ref 20221121, dated 19 October 2022, was refused by notice dated 20 December 2022.
 - The development proposed is erection of detached family dwelling of two storey design with integral garage, driveway and associated landscaping with dwelling to be served by existing vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's second reason for refusal refers to the impact on the North Downs Area of Outstanding Natural Beauty. However, the Council's evidence and Policy CS12 of the Gravesend Local Plan Core Strategy (2014) (CS) refer to the Kent Downs Area of Outstanding Natural Beauty (AONB). For this reason, I have referred to the Kent Downs AONB throughout the decision.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the landscape character area of Meopham Downs and the Kent Downs Area of Outstanding Natural Beauty (AONB);
 - The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to the effects on privacy; and
 - 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 needed to justify the development.

Reasons

Whether or not the proposal is inappropriate development in the Green Belt

4. The appeal site is situated in the Green Belt. Paragraph 149 of the National Planning Policy Framework (2023) (the Framework) indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One of the exceptions to this is "*limited infilling in villages*".
5. There is no definition of 'village' or 'limited infilling' within the Framework and my attention has not been drawn to any relevant planning policy or definition for either term within the development plan. Both parties agree that, for the purposes of assessing the appeal proposal, Sole Street is a village, albeit the appeal site is located outside of any identified settlement boundary for the village.
6. Case law¹ has established that limited infilling is applicable to all villages and not restricted to sites that fall within identified settlement boundaries in local plans. It is necessary for decision makers to have regard to the situation 'on the ground' to consider the factors which may determine whether a site can be considered to be within a village.
7. Two properties are located to the north of the site, whilst a single property, 'Wildacre', is located to the south. The arrangement of these dwellings is irregular, and they sit within large plots, without any discernible building line. The properties to the north, 'Montilla' and 'Leighton', are clearly visible from the highway and in views across the appeal site. Their frontage is defined by a brick wall and they are part of the built form of the village before it tapers off into the countryside to the south.
8. The appeal site is an open paddock, with agricultural fields to the rear. This makes a significant contribution to the open and rural character of this side of the road. It also provides a buffer which disconnects Wildacre from the properties to the north. Furthermore, Wildacre is largely hidden in views from the public domain by very mature and dense hedging, which also contributes to the rural character of the area. As the built form of Wildacre is not discernible within public views, the proposal would not close a small gap in an otherwise built up frontage.
9. On the opposite side of the road from the appeal site is the Railway Inn public house, Sole Street railway station and a bus stop. That side of the road has a built up appearance, and could be considered to be within the village. However, on the opposite side of the road, where the appeal site is located there is a more distinctly rural character which begins from the public right of way which adjoins the site's northern boundary. In this regard my findings are consistent with the previous Inspector².
10. Consequently, when viewed 'from the ground' the built form south of the public right of way is significantly dispersed and there is not a discernible group of closely associated buildings on this side of the road, which would be expected within a village. For these reasons, neither the appeal site nor Wildacre are located within a village. Therefore, regardless of whether the proposal is

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

² APP/K2230/W/17/3176951

infilling or not, the development of the appeal site would not amount to infilling within a village as identified by Paragraph 149 of the Framework.

11. The appellant refers to policy GB6 of the Draft Development Management Policies Document (2020). The Council has not referred to this document, and from the copy the appellant has provided the document is at Regulation 18 stage. Accordingly, I can only give such policies very limited weight in the decision-making process. Regardless, the wording of the draft policy confirms that proposals for development beyond rural settlement boundaries should be accompanied by evidence supporting any claim that the Green Belt exemption under national policy should apply. For the reasons outlined above, I have determined that the proposal is not compatible with the Green Belt principles of the Framework.
12. Accordingly, I conclude that the proposal would be inappropriate development in the Green Belt, having regard to the Framework. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very specific circumstances.

Openness

13. Paragraph 137 of the Framework identifies 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. Openness has both a visual and spatial dimension.
14. The proposal would introduce a relatively large, two storey structure into a space where there is currently no development, thereby eroding existing open space. This would have a harmful effect on spatial openness.
15. The appeal site's existing open and verdant character would be eroded, being replaced by built development, and the associated residential paraphernalia that is bound to follow the new dwelling. This would have a harmful effect on visual openness.
16. Therefore, I conclude that the proposal would not preserve, and would have a harmful effect on, the openness of the Green Belt. Given the scale of the proposal, I consider the harm to openness to be moderate. As such, the proposal would conflict with the provisions within the Framework which seek to preserve the openness of the Green Belt.

AONB and landscape character area

17. Since the appeal site is within an AONB, great weight should be given to conserving and enhancing landscape and scenic beauty, as set out in paragraph 176 of the Framework. The appeal site is also located within the Meopham Downs Landscape Character Area (MDLCA).
18. The impacts of the appeal scheme would be limited to near distance views meaning the impact on the wider AONB and landscape character area would be limited. Nevertheless, the construction of the dwelling and associated domestic paraphernalia would result in urbanisation of the appeal site which is currently an open paddock.

19. The historic presence of a large number of dwellings in Sole Street within the AONB has little bearing on whether the development of the appeal site is acceptable, as this falls to be considered on its own merits.
20. Whilst the Kent Downs Area of Outstanding Natural Beauty Unit did not raise concerns in relation to the principle of a dwelling in this location. I note that specific concerns were raised about the design of the proposal and the use of the materials, which would make only limited reference to local vernacular. Based on the evidence before me, I see no reason to disagree with this conclusion.
21. Overall, I conclude that the proposal would be harmful to the character and appearance of the area, having particular regard to the landscape character area of the AONB and the MDCLA. Consequently, the proposal would conflict with Policy CS12 of the CS. This policy, amongst other things, requires the greatest weight to be given to the conservation and enhancement of the landscape and natural beauty of the Kent Downs AONB. I also find conflict with the principles of the Framework, which I have described above.

Living conditions

22. At first floor level the proposal's side elevation would have three windows facing the neighbouring property, Montilla from close proximity.
23. One of these first floor windows would serve bedroom 3 and would afford views directly to Montilla's rear garden. Due to the orientation and proximity to the shared boundary views from this window, it would enable a level of overlooking which would significantly diminish the privacy of Montilla's rear garden. This would be harmful to the neighbouring occupiers' living conditions.
24. I recognise that the neighbouring occupiers have not raised any objections. However, each appeal must be determined on its own planning merits and I am mindful that the development and the associated harm would be likely to remain long after the current occupiers might reside at Montilla.
25. The appellant indicates that the window could be obscure glazed and details of an additional rear facing window, to provide outlook to the room, could be secured via a planning condition. However, as I do not have proposed plans showing the size and location of an alternative window, it is not possible to assess its potential impact on the living conditions of neighbouring occupiers, or to gauge the extent to which it would improve the living conditions for future occupiers of the proposal. Consequently, such a condition would not be appropriate in this instance.
26. The side elevation would also have an en-suite window, and a window serving bedroom 1, both of which would face Montilla. As the en-suite is not a habitable room, and as bedroom 1 has a second large window that faces away from the neighbouring property ensuring a good level of outlook from the room, both windows could be obscure glazed and a planning condition could ensure that they are retained as such. This would be sufficient to prevent the neighbouring occupiers experiencing a real or perceived loss of privacy from these windows.
27. However, as a result of the impact on the garden area, I conclude that the proposal would harm the living conditions of the occupiers of Montilla, with particular reference to the effect on privacy. I therefore find that it would

conflict with Policy CS19 of the CS which outlines that new development should safeguard the living conditions of neighbouring occupiers. I also find conflict with the principles of the Framework that seek the creation of places that are safe and have a high standard of amenity for existing and future users.

Other considerations

28. The Framework seeks to significantly boost housing supply and the proposal would contribute to local housing supply. The additional residential unit provides limited weight in favour of the proposal.
29. The appellant has referred to other appeal decisions³ and a delegated report⁴ which have concluded that development at sites with gaps in frontages have constituted infill development within villages. However, on the basis of the information provided, in determining each of these appeals, the Inspectors found the appeal sites to comprise part of the outer edge of a village or to be connected with the village envelope. For the reasons I have identified above, I have found the appeal site to be located outside the outer edge of the village. In any event the proposal has been considered on an individual basis and the acceptance of other development referred to is of very limited weight.
30. The proposal would be located close to the railway station, bus stop and within walking distance of a village shop, and would therefore be in an accessible location. This factor is afforded limited weight in favour of the proposal.
31. There would be some economic benefits from construction and the 'spend' of future residents but these would be limited benefits given the small scale of the proposed development.

Green Belt Balance and Conclusion

32. The proposal would constitute inappropriate development in the Green Belt which should not be approved except in very special circumstances. It would also not preserve, and would have a harmful effect on, the openness of the Green Belt. Substantial weight should be given to any harm to the Green Belt. Furthermore, I have also found that the proposal would cause harm to the character and appearance of the landscape character area, the AONB, and to the neighbouring occupiers of Montilla.
33. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations. The contribution of one dwelling, in an accessible location, to the supply of housing is afforded limited weight. I have also afforded very limited weight to the various appeal decisions provided by the appellant.
34. The proposal may be compliant with various other provisions of the development plan, such as in relation to car parking and providing an acceptable standard of accommodation for future occupiers. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.
35. Taking all the above into account, the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations, either individually

³ APP/G2245/W/19/3230759; APP/P0119/W/16?4151719; APP/Q4625/W/17/3182260 and APP/A06654/A/14/2217226

⁴ 18/03609/FUL

or cumulatively, sufficient to demonstrate very special circumstances. Therefore, the proposal is contrary to the principles of the Framework which seek to protect the Green Belt from inappropriate development.

36. The Council acknowledge that they do not have a five-year supply of deliverable housing sites, and indicate that a 3.27 year supply has most recently been calculated. Furthermore, they acknowledge that the Housing Delivery Test 2021 shows that the Council had delivered below 75% of its housing target at that time. As a result, paragraph 11.d of the Framework states that the development plan policies which are most important for determining the application are out-of-date.
37. Bullet point (i) of paragraph 11.d clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including the Green Belt, provide a clear reason for refusing the development. As I have explained above, there would be harm to the Green Belt. That provides a clear reason for refusing the development.
38. I therefore conclude that the proposed development would conflict with the development plan as a whole and there are no considerations, including the Framework, that indicate otherwise. Consequently, the appeal should be dismissed.

B Pattison

INSPECTOR