



Appeal Decision

Site visit made on 8 November 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/K2230/W/22/3291577

75 Valley Lane, Culverstone DA13 0DG

- 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 Dean Geering against the decision of Gravesham Borough Council.
 - The application Ref 20210382, dated 25 March 2021, was refused by notice dated 1 September 2021.
 - The development proposed is Construction of Detached Bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both main parties have referred to the planning history of the appeal site, including three dismissed appeals. However, I have not been provided with either the decision notices or plans in respect of those cases and as such I do not give these considerations any significant weight. The appellant has also referred to various appeal decisions. However, again, the appeal decisions have not been provided. In any case, the vast majority of those cases relate to development in different districts. Clearly the case-specific circumstances will vary significantly between schemes. Given the site-specific variations and the differing development plan policy contexts, these cases have little bearing on the main issues of this appeal.
3. Nonetheless, I have had regard to the approach taken by those Inspectors in forming their conclusions. I have also had regard to the case law referred to by the appellant, much of which relates to the approach to considering development in the Green Belt.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - Whether the site is a suitable location for residential development, with particular regard to access to services and facilities.
 - The effect of the proposed development on the character and appearance of the appeal site and surrounding area.

- The effect of the proposed development on trees and biodiversity.
- If the proposal 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 required to justify the proposal.

Reasons

Inappropriate Development

5. The appeal site is located within the Green Belt. Core Strategy¹ Policy CS02 requires that development in the Green Belt accords with national policies.
6. Framework Paragraph 149 states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, except in certain circumstances. Exception 'e' refers to 'limited infilling in villages'.
7. The Framework does not define a 'village'. As a starting point, the appeal site is not located within any settlement boundary as defined within the development plan. However, this is not the determinative factor in considering whether a site is within a village. Indeed, an assessment of the site-specific circumstances is necessary².
8. The site is located within an area known as Culverstone Valley. Both main parties have referred to the 'Culverstone Valley Area Position Statement Update' which is said to set out the Council's position on 'infilling' in this area within the terms of the 2012 version of the Framework. Nonetheless, I have not been provided with a copy of this document and as such I have not attributed it any significant weight in considering this appeal.
9. The appeal site and surrounding area have a rural appearance, with woodland punctuated by a significant number of buildings, including residential development. These residential properties, with the exception of those which are predominantly located within the settlements of Culverstone Green (to the east) and Vigo (to the south), are loosely distributed over a wide area. Development is typically linear, albeit many properties are set back significantly from the private and often unmade roads which connect them.
10. This prevailing character is unique. However, it is markedly different from what one might expect of a settlement. Whilst there are some areas within Culverstone Valley which have greater concentrations of residential development, the area within which the appeal site is located (including the land surrounding valley lane) does not comprise any significant physical or functional concentration of development. Indeed, it would be difficult to establish where the boundaries of a village would be drawn if one were to take a different stance. Whilst it is not necessary to define such boundaries, this consideration further re-enforces the conclusion that the appeal site is not within a village.
11. In functional terms there are no significant services or facilities within the immediately surrounding area. Indeed, the appellant indicates that the nearest services and facilities are approximately 1km from the appeal site. Furthermore, footways, street furniture and areas of public open space are also

¹ Gravesham Local Plan Core Strategy (Adopted September 2014)

² See CA Judgement in: Julian Wood v SSCLG and Gravesham Borough Council [2015]

limited or non-existent within the vicinity of the appeal site. These are all functional elements of which at least some would be expected within a village.

12. In summary, the appeal site is not within a village within the meaning of the term outlined at Framework Paragraph 149e. In addition, whilst one dwelling is quite plainly a 'limited' scale of development, the proposal does not comprise 'infilling'. The term 'infilling' is not defined by the Framework and it also requires a consideration of site-specific circumstances. There are properties opposite and to the rear of the appeal site. However, there are no dwellings located directly to either side. Indeed, the nearest significant buildings to either side of the plot are physically separated by areas of woodland. Taking these considerations into account, the proposal does not constitute 'infilling'.
13. In summary, exceptions 'e' and 'f', as set out under Framework Paragraph 149, do not apply to the proposed development. The proposal would therefore be inappropriate development in the Green Belt.

Openness

14. Framework Paragraph 137 states that the essential characteristics of Green Belts are their openness and permanence. An assessment of openness involves a consideration of both spatial and visual aspects. Indeed, this is established within the Case Law cited by the appellant.
15. The erection of a dwelling on the appeal site would clearly result in a spatial reduction in the openness of the Green Belt, given that there is no such building currently in this location. Albeit I note that the proposed dwelling would be single storey, which does mitigate the spatial impact. Nonetheless, there would be a moderate reduction in the spatial openness of the Green Belt as a result of the development.
16. The appeal site is reasonably well visually contained by its surroundings. The land rises fairly steeply to the rear of the site which has an enclosing effect and would thus reduce the visual impact of the development on openness. There are also trees within and surrounding the site which would further contain the visual impact. Nonetheless there would still be a moderate visual impact on openness which would be apparent from the adjacent footpath and highway.
17. In summary, the proposed development would result in a moderate spatial and visual reduction in the openness of the Green Belt. It would therefore fail to preserve its openness.

Access to Services and Facilities

18. The appeal site is located approximately 1km from the nearest settlements of Vigo and Culverstone Green. These settlements have limited services and facilities including small retail shops, a post office, petrol station, primary school, a pub, and a small number of restaurants. There is also evidence to indicate that there are public transport links within these villages which would facilitate sustainable travel to larger settlements.
19. Whilst the appeal site is not isolated within the terms of Framework Paragraph 80, given its proximity to neighbouring residential development, it is functionally divorced from the aforementioned services and facilities. This is because the routes from the appeal site to these settlements are largely unlit, lack footways and traverse hilly terrain. These are all factors which are likely to

discourage walking and cycling, particularly in darker winter months. As a result, future occupiers of the proposed development are likely to rely heavily on the private motor vehicle.

20. In turn, it is logical to conclude that they would likely travel to larger settlements further afield in order to access a wider range of services and facilities to meet their needs. In this regard, the proposal would offer very limited support to the services and facilities in rural settlements of Vigo and Culverstone Green. As such, the proposal derives little support from Framework Paragraph 79, which outlines that, in rural areas, housing should be located where it would support local services.
21. In summary, the appeal site offers poor access to services and facilities and the future occupiers would largely depend on the private motor vehicle in this regard. The proposed development would therefore conflict with Framework Paragraph 92, which states in part that decisions should ensure healthy and inclusive places, including through providing access to local shops. It would also conflict with Framework Paragraph 105, which states that significant development should be focused on locations which are, or can be made, sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
22. The Council has referred to Core Strategy Policy CS01. However, this is a broad policy encompassing the approach to decision making in considering whether development is sustainable. As such, it is not directly relevant to this main issue.

Character and Appearance

23. The appeal site is located within the Harvel Wood Downs Landscape Character Area. The Landscape Character Assessment (LCA, 2009)³ outlines that views into and out of the character area are limited as a result of topography and the heavily wooded character of the landscape. The LCA also describes how land to the north of Harvel (a nearby settlement) includes a haphazard mosaic of housing of varying design style and scale, located within woodland. Whilst Culverstone Valley is located to the west of Harvel this description is also true of the area within which the appeal site is located.
24. Indeed, whilst the existing character of the appeal site is heavily wooded, the appeal site allows for enhanced planting measures which could mitigate any reduction in tree cover required to facilitate the proposal. Furthermore, the limited scale of the proposal would be reflective of the varied character of the surrounding area, which includes many dwellings which are far more prominent. Taking these factors into consideration the proposed development would not be harmful to the character of Harvel Woods Downs Landscape Character Area, nor the wider area (notwithstanding the harm that it would cause to the Green Belt).
25. For these reasons, the proposed development would comply with Core Strategy Policies CS12 and CS19, which seek in part to conserve landscape character and the natural environment
26. Framework Paragraph 174 outlines that decisions should protect and enhance valued landscapes. Whilst the Framework does not define the term 'valued

³ Gravesham Landscape Character Assessment (May 2009)

landscape', I consider that this landscape is valuable given the unique relationship between woodland character and the proliferation of residential development which is located within it. The proposed development would comply with Framework Paragraph 174 for the reasons given above.

Trees and Biodiversity

27. The proposed plans show the location of the proposed dwelling in relation to trees within the appeal site. Given the close proximity of the dwelling to existing trees, it is likely that some would require removal. The existing trees within the appeal site do make a positive contribution to the woodland character of the area. However, there would be sufficient room surrounding the location of the proposed dwelling to plant new trees. There is therefore the prospect of enhancement of the existing character in this regard. Furthermore, tree protection measures could be secured by planning condition.
28. The Council assert that the absence of ecological surveys means that it is not possible to establish whether the proposed development would have a negative impact on biodiversity. However, no reference is made to any record of protected species being present within or around the appeal site, nor the likelihood of any adverse effects on any such species.
29. Whilst the appeal site is heavily wooded at present, it is within an area which contains a wide range of residential development. As such, and in the absence of any evidence to indicate the presence of protected species, it is unlikely that a development of the limited scale proposed would have an adverse impact in this regard.
30. For the reasons outlined above, there is no evidence to indicate that the proposal would have an adverse impact on biodiversity. In addition, the loss of any trees would not be harmful to character or biodiversity, given the prospect for replacement trees to be planted and other enhancements to be required by planning condition. The proposed development therefore complies with Core Strategy CS12, insofar as this policy seeks to protect biodiversity.

Other Considerations

31. Framework Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that 'very special circumstances' will not exist unless the potential harm to the Green Belt and any other harm, is clearly outweighed by other considerations. The proposed development would provide 1 dwelling. This would result in social and economic benefits associated with the increase in the housing stock.
32. The Council's Officer Report confirms that at the time the planning application was refused there was a HLS of 3.27 years. Neither of the main parties have provided any evidence to indicate whether or how this position may have changed and I must consider this appeal on the basis of the evidence before me. Nonetheless, whilst the benefits associated with housing provision are increased within this context, I still only afford them moderate weight given that only 1 dwelling is proposed.
33. There would be some limited social and economic benefits associated with the temporary construction period and the limited support for local services and facilities (notwithstanding my earlier conclusions). There is also the prospect of

landscape and biodiversity enhancement albeit no specific proposals have been advanced to me in this regard. These are however all relatively modest benefits given the limited scale of the proposal.

Planning Balance

34. The scheme would be inappropriate development, which by definition, would be harmful to the Green Belt. There would also be a moderate spatial and visual reduction in the openness of the Green Belt as a result of the proposed development. Nonetheless, Framework Paragraph 148 states that any harm to the Green Belt should be attributed substantial weight.
35. In addition, whilst I have concluded that the development would not be harmful to the character and appearance of the surrounding area in broader terms and that it would not result in adverse impacts on biodiversity or trees, I have found that the site has poor access to services and facilities and that the development would lead to an over-reliance on the private motor vehicle. This is a factor which weighs further against the development.
36. The economic and social benefits associated with the provision of one dwelling to the housing stock (in the context of a shortfall) would carry moderate weight. There are some other minor benefits, but these only carry limited weight for reasons already outlined.
37. In conclusion, whilst there are some significant benefits associated with the proposed development, the substantial weight to be given to Green Belt harm and other harm is not clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist.
38. The proposed development is therefore contrary to Core Strategy Policy CS02 and the relevant provisions of the Framework in relation to development in the Green Belt.
39. Framework Paragraph 11D outlines that where the most important policies are out-of-date (as is the case here given the HLS shortfall) permission should be granted unless (11Di) policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. In this case, the Framework's Green Belt Policies provide a clear reason for refusing the development.

Conclusion

40. The proposed development conflicts with the development plan taken as a whole. There are no other matters raised of sufficient weight to indicate that a decision should be made other than in accordance with it. As such, the appeal is dismissed.

Luke Simpson

INSPECTOR