



Appeal Decision

Site visit made on 20 August 2019

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th August 2019

Appeal Ref: APP/M3645/W/19/3230341

Workshop rear of Greenleas, 10 Redehall Road, Smallfield RH6 9QL

- 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 Portgreen Properties against the decision of Tandridge District Council.
 - The application Ref TA/2017/2080, dated 6 October 2017, was refused by notice dated 14 December 2018.
 - The development proposed is demolition of existing buildings and erection of 16 N^o dwellings with associated access, parking, landscaping and other associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the heading I have used the address given on the appeal form which is the same as that stated on the Council's decision. This more precisely describes the address than that given on the application form.
3. Although the application proposes demolition of buildings, I saw on my visit that the buildings have been demolished.

Main Issues

4. The main issues in the appeal are:
 - i) whether or not the proposed development would be inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework (the Framework) including consideration of the effect of the proposal on the Green Belt and whether affordable housing requirements would be met;
 - ii) the effect of the proposal on the character and appearance of the area;
 - iii) whether or not there are other considerations weighing in favour of the proposal; and
 - iv) if the proposal would be 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 it.

Reasons

The Site and its Surroundings

5. The site has access to Redehall Road between numbers 10 and 12 and lies to the rear of those properties. It formerly comprised two main buildings and two smaller buildings with areas of hard standing which were in commercial use for storage and vehicle repairs. The site is outside the settlement boundary for Smallfield as defined in the development plan and is within the Green Belt. There is residential development along both sides of Redehall Road which extends outside the settlement boundary. However, the dwellings are interspersed with significant open areas. On the western side of the road there is a sports field and the large garden of N^o10 to the north of the site. To the south there is a ribbon pattern of development and a recent housing development which extends back from the road.
6. It is common ground that the site is previously developed land. The Council has granted permission for 10 dwellings on the site, which would coincide with plots 1 to 10 proposed in this application. These would occupy the part of the site closest to the road, which was previously occupied by the two main commercial buildings. In the approved scheme the rear part of the site would be left open. This part was previously occupied by two small buildings, one of which was a stable, and areas of hard standing.
7. The Framework states that new buildings should be regarded as inappropriate in the Green Belt. An exception to this is the partial or complete redevelopment of previously developed land, provided that this would not have a greater impact on the openness of the Green Belt than the existing development. Alternatively, such development would not be inappropriate provided that it would not cause substantial harm to the openness of the Green Belt and would contribute to meeting affordable housing need.

Effect on openness

8. The proposed development would occupy a greater proportion of the site than both the approved development and the previous development. Although there are trees and hedges around the site there are gaps which would limit their effectiveness in screening the development from view. The dwellings would be up to 10m in height and it is likely that their upper parts would be visible above the vegetation. It is also likely that the development would be visible to some extent from surrounding parts of the countryside during winter months when the vegetation is not in leaf.
9. The development would have a greater effect on openness by extending further to the rear and away from the frontage development along Redehall Road. The proposed dwellings on plots 11 to 16 would be aligned to face the rear boundary of the site and the open countryside. They would be 2.5 storeys in height and closely spaced. The height and extent of the development on these plots would be much greater than the modest scale of the previous buildings. The proposal would also be more intrusive than the previous areas of hard standing and the vehicle parking that took place there. For these reasons the proposal would have a greater impact on the openness of the Green Belt than both the previous development and the approved development. This harm to the Green Belt attracts substantial weight, as stated in the Framework.

Affordable Housing

10. Policy CSP 4 of the Core Strategy¹ (CS) requires that up to 34% of the dwellings on sites of 10 units or more in the rural areas are affordable. The actual provision on each site may be negotiated. There is a presumption that affordable housing is provided on site but in some circumstances a contribution towards affordable housing on another site may be accepted. The Council advises that there are 1,425 applicants on its housing register who are seeking an affordable home.
11. A viability report was submitted by the appellant and the Council in turn commissioned an evaluation of that report. There is asbestos and other contamination within the site, the removal of which will add to development costs. The Council's report assesses the development value on the basis that two of the units would be shared ownership. It concludes there would be a deficit of £177,000 assuming developer's profit of 20% or a small surplus if the profit were reduced to 16%. On this basis the suggested shared ownership dwellings would be viable. There is no legal agreement before me, however, to secure affordable housing provision.
12. The appellant has offered a financial contribution of £250,000 towards affordable housing. It has not been explained how the contribution amount has been calculated or how it would be used. The Council has not agreed the suggested contribution. Payment of contributions towards affordable housing elsewhere is the last option in Policy CSP 4 after consideration of provision of affordable housing on site or on an alternative site provided by the developer. The policy requires that such a contribution must be secured by a legal agreement. This would be necessary to secure the contribution and to ensure that it is used to provide affordable housing of an appropriate type and tenure.
13. The Planning Practice Guidance states that negatively-worded conditions requiring a legal agreement to be entered into before development starts can be used in exceptional circumstances, such as where the delivery of the development would otherwise be at serious risk. There is no evidence before me that there are any exceptional circumstances in this case that would justify the use of a negatively-worded condition to secure a legal agreement.
14. Because the contribution amount has not been justified a condition requiring a legal agreement to secure payment would fail the test of reasonableness. Furthermore, in the absence of a legal agreement it is not clear how the contribution would be used to meet an identified affordable housing need as required by paragraph 145(g) of the Framework. For these reasons affordable housing provision has not been secured and the proposal would not accord with Policy CSP 4 of the CS.

Conclusion on whether Inappropriate Development

15. For the reasons given above the development would not fall within either of the exceptions in paragraph 145(g) of the Framework and would be inappropriate development in the Green Belt. The Framework states that this is, by definition harmful and that substantial weight should be given to such harm.

¹ Tandridge District Core Strategy (2008)

16. The proposal would not accord with Policy DP13G of the Local Plan² (LP) which allows for partial or complete redevelopment where this would not have a greater impact on openness than the existing development. Although this part of the policy is consistent with the Framework, the policy as a whole is not, and this limits the weight that can be given to it.

Character and Appearance

17. The houses along Redehall Road form a ribbon of development within a rural setting. The recent housing scheme at the former Gonville Works is an exception to this, extending back from the road. However, this is at a much lower density than the proposed development and is similar to the frontage development in this respect. The proposed development would contrast with the predominant pattern of development in the area both in terms of its layout and its density.
18. The site is identified in the Council's Landscape Capacity and Sensitivity Study as 'filtered urban edge' but this does not alter the fact that it is clearly in the countryside and outside the urban area. Rather, it reflects the previously developed nature of the land as part of frontage development. In the context of the generally rural setting the high density of the development and its extension back from the road frontage would be out of character and intrusive. The development would be seen from Redehall Road along the access road and from the adjacent countryside areas, above and through the boundary vegetation.
19. For these reasons the proposal would not respect the character, setting and local context as required by Policy CSP 18 of the CS. Neither would it integrate effectively with its surroundings or reinforce local distinctiveness and landscape character as required by Policy DP7A of the LP.
20. Policy CSP 21 of the CS requires protection of landscape and countryside character for their own sake. The proposal would not accord with that policy, but the requirement to protect the countryside for its own sake is not consistent with the Framework and this limits the weight that I give this.
21. In the draft Local Plan, which has been submitted for examination, it is proposed to allocate land to the east of Redehall Road for residential development. This would adjoin an existing built up part of Smallfield and its existing settlement boundary. The appeal site differs from that proposed allocation as it is within open countryside and separated from the built-up area and the settlement boundary. However, at this stage, only limited weight can be given to the proposed allocation as the examination process has not been completed.
22. For the reasons given I find that the proposal would unacceptably harm the character and appearance of the area. I give significant weight to this harm.

Other Considerations

23. The Council states that it cannot demonstrate a five-year supply of deliverable housing sites as required by the Framework. The CS is more than 5 years old and using the standard methodology with a 5% buffer the Council has 2.45 years' supply on the basis of the figures provided by the appellant. If a 20%

² Tandridge Local Plan Part 2: Detailed Policies (2014)

buffer is used, the supply is 2.14 years' worth. The corresponding figures using the Strategic Housing Market Assessment (2015) are 3.36 years and 2.94 years respectively.

24. In the context of the shortfall, the development would be of benefit. It would provide 16 units of market housing including a mix of housing sizes and types which would be well located in terms of accessibility on foot to local services and facilities. Having regard to the scale of the shortfall and the number of dwellings proposed I give significant weight to this benefit.
25. As well as the social benefits of new housing, the proposal would benefit the local economy through generation of employment and expenditure during construction and after occupation. The Council would be in receipt of New Homes Bonus and additional Council tax. I give further significant weight to these benefits.
26. The development would include new landscaping and biodiversity measures. The dwellings would incorporate measures for energy efficiency and renewable energy generation. These measures would however off-set the impacts of the development rather than provide net benefits. Similarly, Community Infrastructure Levy payments would be necessary to address infrastructure needs arising from the development and would not represent a benefit.

Whether Very Special Circumstances

27. Paragraph 143 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
28. I have concluded that the proposed development would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. The development would harm the openness of the Green Belt. Paragraph 144 of the Framework states that substantial weight should be given to any harm. I have also found that the proposal would harm the character and appearance of the area to which I give significant weight.
29. On the other hand, I have concluded that significant weights should be given to the benefits in terms of housing supply and the economic benefits arising from the proposed development. Those weights are not however sufficient to outweigh the substantial and significant weights that I have given to the identified harms. On this basis, very special circumstances to justify the proposed development have not been demonstrated.
30. Policy DP10 of the LP resists inappropriate development in Green Belt unless very special circumstances are demonstrated. The proposal would not accord with that policy which is consistent with the Framework.

Conclusions

31. Paragraph 11(d) of the Framework provides for permission to be granted in circumstances where there is not a five-year supply of housing sites. However, this does not apply if policies in the Framework that protect areas of particular importance provide a clear reason for refusing the proposal. Policies relating to

Green Belt are one such policy, as stated in footnote 6. Therefore, the Framework policies provide a clear reason for refusal.

32. For the reasons given I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR

Richborough Estates