



Appeal Decision

Site visit made on 3 September 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 2 October 2019

Appeal Ref: APP/G2245/W/19/3230759

Haresfield, Badgers Road, Badgers Mount TN14 7AY

- 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 & Mrs Harding against the decision of Sevenoaks District Council.
 - The application Ref 19/00538/OUT, dated 22 February 2019, was refused by notice dated 18 April 2019.
 - The development proposed is the erection of single detached dwelling on infill plot.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of single detached dwelling on infill plot at Haresfield, Badgers Road, Badgers Mount TN14 7AY in accordance with the terms of the application Ref 19/00538/OUT, dated 22 February 2019 and the site location plan submitted with it, subject to the attached schedule of conditions.

Procedural Matters

2. The application was for outline permission with all matters reserved for later determination. The appellant has submitted a site layout drawing and a site cross section. For the purpose of this appeal I have taken the details shown on the submitted drawings as illustrative only.
3. The Sevenoaks District Council Local Plan Proposed Submission Version (the emerging Local Plan) has been submitted, but has yet to be examined and found sound. Therefore, it attracts limited weight as a material consideration.

Main Issues

4. Subsequent to the Council determining the application the appellants have provided additional information in the form of an Ecological Appraisal (the EA), dated 10 May 2019. The Council has considered the contents of the EA and conclude that this matter can be addressed by the imposition of suitable planning conditions. I have no reason to disagree with this opinion.
5. The main issues are, therefore: -
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies, including any relevant effects on the openness of the Green Belt, and: -

- Whether the 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 required to justify the proposal.

Reasons

Whether Inappropriate Development

6. The appeal site is a garden associated with the detached dwelling of Haresfield on the outskirts of the village of Badgers Mount. Haresfield is accessed off Badgers Road, a track giving access to a group of dwellings off the A224 and is the last dwelling on the northern side of the track before entering open countryside. There are several existing dwellings with frontages to this part of Badgers Road, with planning permission recently granted to build an additional dwelling between The Cottage and Parish Field under Council Ref: 18/03530. Whilst partially screened by existing planting, these dwellings have a presence in the street scene. The garden contains a swimming pool, a greenhouse and a shed. At the time of my visit there were also two caravans on the site. The garden is bounded by mature, dense planting.
7. The Council's first reason for refusal does not refer to any specific policies within the development plan, referring only to the Council's Supplementary Planning Document: Development in the Green Belt 2015 (the SPD). However, the section of the SPD relating to Limited Infilling in Villages refers to Policy LO7 of the Sevenoaks District Council Local Development Framework Core Strategy (the Core Strategy). This Policy is therefore relevant to my decision and I have therefore taken it into account.
8. The main parties agree that the site lies within the Metropolitan Green Belt. Paragraph 145 of the Framework establishes that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. These exceptions include limited infilling in villages; and limited infilling or the partial or complete redevelopment of previously developed land whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. The appellant argues that the proposal fulfils the criteria for infilling within a village, whilst the Council argue that it fulfils the criteria of neither.
9. Policy LO7 of the Core Strategy sets out the Council's Spatial Strategy for development in rural areas and is broadly consistent with the aims of the Framework of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities as set out in Paragraph 78. The policy states that within all the settlements covered by the policy new development should be of a scale and nature appropriate to the village concerned and should respond to the distinctive local characteristics of the area in which it is situated. Badgers Mount falls within the category defined in the Core Strategy as a 'small village or hamlet', having a very restricted range of services which render them unsuitable locations for promoting development. Badgers Mount is sufficiently built up to justify a defined Green Belt boundary but the Core Strategy considers that, in view of the lack of facilities, development in these locations will be limited to small scale infilling only.

10. The appeal site falls beyond the urban confines of Badgers Mount as defined in the Sevenoaks District Council Local Plan Allocations and Development Management Plan 2015 (the ADMP). However as confirmed by a High Court Judgement¹ a defined village boundary in a Development Plan is not conclusive to determining whether a site is within a village or not. The properties lying off Badgers Road are a continuation of the built form of Badgers Mount and comprise of part of the outer edge of the village.
11. There is dispute between the parties as to whether the proposed development constitutes 'infilling'. Whilst the Framework does not include a definition of 'infilling', the SPD defines limited infill development as "the completion of an otherwise substantially built up frontage by the filling of a narrow gap normally capable of taking one or two dwellings only". Further, the SPD defines a substantially built up frontage as "an otherwise continuous and largely uninterrupted built frontage of several dwellings visible within the street scene". The development of one dwelling is considered 'limited'.
12. The recently permitted dwelling, together with the other dwellings along the northern side of this stretch of Badgers Road, create a regular spacing of development, with the separation between Haresfield and Selworthy, its immediate neighbour, being significantly larger. The gap between Haresfield and Selworthy is atypical in the pattern of development. In this case, although the term 'narrow' is open to interpretation, the size of the gap would allow the development of one dwelling whilst retaining spaces between itself and the buildings on either side typical of the pattern of development in the vicinity. Whilst the proposal before me is in outline form, with all matters reserved for later determination, the positioning of the proposed dwelling can be controlled at a later date to conform to the general grain of development in the area. As a result, taking into account the established grain and form of development, I find that the development would constitute limited infilling within the built-up frontage on the north side of Badgers Road.
13. I therefore consider that, even were I to agree with the Council that the development does not fall under paragraph 145(g) of the Framework in respect of limited infilling which would not have a greater impact on the openness of the Green Belt, I find that the proposal would constitute limited infilling in a village and would as a result fall under the exception in Framework paragraph 145(e). Having concluded that it meets this exception there is no need for me to consider the proposal against any of the other exceptions within that paragraph.
14. I conclude, therefore, that the development is not inappropriate development within the Green Belt. The development therefore complies with the aims of Paragraph 145 of the National Planning Policy Framework and the Council's Supplementary Planning Document: Development in the Green Belt.

Other Matters

15. The site lies within an Area of Outstanding Natural Beauty (AONB). However, the site is well-screened by the existing planting and its position on lower ground. I conclude as such that the proposal would preserve the landscape and scenic beauty of the AONB. I note that this is in accordance with the Council's assessment of the impact of the proposal in the Officer's Report.

¹ Wood v SSCLG (2015) EWCA Civ 195

16. Concerns have been raised concerning the effect of additional traffic on the track. The development is of a relatively small scale and the number of traffic movements that it would generate would be limited. So, whilst contributing incrementally to overall traffic flows, the impact will, of itself, not be significant.
17. My attention has been drawn to an appeal at Somers Lodge, Wheatsheaf Hill (Appeal Ref: APP/G2245/W/18/3203679). However, I have little information regarding the details of this appeal and cannot therefore be certain that the circumstances are comparable to those before me here. I have, in any case, determined this appeal on its own merits.

Conditions

18. I have had regard to the planning conditions suggested by the Council. The appellant has had the opportunity to comment on these and has not raised any concerns in regard to them. I have assessed these against the guidance in paragraph 55 of the Framework.
19. In addition to the standard conditions requiring the submission of reserved matters and stipulating time limits I have placed a condition upon the development limiting the scale of the permission to one dwelling, in accordance with the description set out in the application, and a condition requiring the development to be built in accordance with the approved plan. These are necessary for the avoidance of doubt and in the interest of certainty.
20. There are many mature trees within the site, and it is likely that they are used by nesting birds. I have therefore included a condition restricting the removal of nesting habitats or, in the alternative, the submission of a bird survey to be submitted to and approved in writing by the local planning authority. This is necessary to protect nesting birds.
21. Conditions requiring the replacement of trees approved as part of the soft landscaping of the site, should they die, and details of tree protection during the construction phase are necessary to prevent damage to trees and preserve the visual appearance of the area. These conditions are supported by Policy EN1 of the Sevenoaks District Council Allocations and Development Management Plan 2015 (the ADMP).
22. I have included conditions requiring submission of details of a biodiversity scheme and a lighting scheme to minimise impact on biodiversity. These are necessary to promote and protect biodiversity as supported by Policy EN1 of the ADMP, Policy SP11 of the Sevenoaks District Council Local Development Framework Core Strategy 2011, and Section 15 of the Framework.
23. A condition requiring the provision of a charging facility for electric vehicles is necessary in order to mitigate and adapt to climate change in accordance with policies EN1 and T3 of the ADMP.
24. These conditions correspond to conditions suggested by the Council. However, I have amended the wording for clarity.

Conclusion

25. For the reasons set out above, and having taken into account all other matters raised, I conclude that the appeal should be allowed, subject to the conditions attached.

I Dyer

INSPECTOR

Schedule of conditions

- 1) Details relating to the appearance of the proposed buildings, means of access, landscaping of the site, layout and scale (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the local planning authority before any development is commenced and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 3) The development to which this permission relates must be begun before: -
 - The expiration of three years from the date of this permission; or: -
 - The expiration of two years from the final approval of the reserved matters whichever is the later.
- 4) The number of dwellings hereby permitted shall not exceed one.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan.
- 6) Bird nesting habitat shall only be removed outside of the bird nesting season (March to August) unless a bird survey has been submitted and approved in writing by the local planning authority. Any clearance of bird nesting habitat outside of March to August shall be carried out in accordance with the approved survey and any measures therein implemented in full prior to the clearance of any bird nesting habitat.
- 7) Before any equipment, machinery or materials are brought on to the land for the purposes of the development, the means of protection of any trees located within the vicinity of the proposed works in accordance with BS5837 : 2012 Trees in Relation to Construction shall be submitted and approved in writing by the local planning authority. Thereafter the land so enclosed shall be kept clear of all contractors materials and machinery. The existing soil levels around the boles of the trees shall not be altered. The means of protection shall be maintained until all equipment, machinery and surplus materials have been removed from the land.
- 8) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.
- 9) No development shall take place until a scheme to promote biological diversity has been submitted and approved in writing by the local planning authority with a scheme of implementation. The development shall be carried out in accordance with the approved details and shall be maintained thereafter.
- 10) Prior to first occupation of the development hereby permitted a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will: identify those areas/features on site that are

particularly sensitive for bats and that are likely to cause disturbance in or around their roosting sites or along important routes used to forage and commute; and show where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb bat activity. Prior to first occupation of the development hereby permitted all external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter in accordance with the plan.

- 11) No development hereby permitted shall be carried out on the land until details for the provision of facilities for the safe charging of electric vehicles has been submitted to and approved in writing by the local planning authority. The facilities shall be installed in accordance with the details so approved prior to the first occupation of any of the residential units retained and maintained thereafter.

END OF CONDITIONS