

Appeal Decision

Site visit made on 4 January 2017

by **Grahame Gould BA MPhil MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th January 2017

Appeal Ref: APP/L3625/D/16/3157518

Wolvers Hall, Ironsbottom, Sidlow RH2 8PU

- 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 and Mrs Holden against the decision of Reigate and Banstead Borough Council.
 - The application Ref 16/00724/HHOLD, dated 29 March 2016, was refused by notice dated 10 June 2016.
 - The development proposed is demolition of attached garage and detached outbuildings, construction of detached garage with annexe accommodation associated with the main dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt; and
 - if the development would be inappropriate, 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 necessary to justify it.

Reasons

3. The development would involve the construction of a detached building that would accommodate a double garage within part of the building's ground floor and a residential annexe occupying the remainder of the ground floor and the whole of the first floor/roof space. The building would be occupied as ancillary accommodation to Wolvers Hall, a substantial detached house that is a 'locally listed' building occupying extensive grounds.
 4. The building would be sited within the confines of a tennis court, which is enclosed by chain link fencing and it would be sited to the north east of Wolvers Hall. As part of the development a double garage would be demolished and five single storey, garden type, timber sheds sited between the house and the tennis court would be removed.
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5. The development is an amended proposal following the refusal of planning permission under application reference 15/00022/HHOLD and the dismissal of an appeal¹, with the earlier scheme being for a larger building.

Whether inappropriate development in the Green Belt

6. The National Planning Policy Framework (the Framework) states at paragraph 87 that inappropriate development in the Green Belt is harmful by definition and should not be permitted. However, paragraph 89 of the Framework lists six categories (exceptions) of development which may be regarded as not being inappropriate in the Green Belt, subject to certain circumstances. Under paragraph 89's fourth exception '... the replacement of a building ...' may be considered as being not inappropriate provided that the new building would be in the same use and not materially larger than the one it replaces. I recognise that the High Court has recently clarified² that for the purposes of the fourth exception several buildings may be replaced by a single new building.
7. Policy Co1 of the Reigate and Banstead Borough Local Plan of 2005 (the Local Plan) addresses new development within the Green Belt. Policy Co1 states that new development will be inappropriate unless it comes within the exceptions identified under this policy. I consider the most relevant possible exception under Policy Co1 is exception (v), ie the replacement of a dwelling provided it would not be materially larger.
8. The appellant and the Council agree that the buildings to be replaced have a floor area of 125 sq.m and that the replacement building would have a floor area (footprint) of around 152 sq.m. However, neither the Framework nor the Local Plan define what constitutes a 'materially larger' building and I consider that such an assessment should not be limited just to comparisons between the existing and proposed floor areas. The annexe building would have a ridge height ranging between 6.821 and 7.055 metres and would therefore be significantly taller than the buildings to be replaced, most particularly the timber sheds, with none of the existing buildings having roof areas capable of being occupied. I consider that the replacement building, because of both its height and resulting volume, would have a significantly greater mass than that of the buildings it would replace, with its proportions being comparable to a standalone dwelling.
9. Notwithstanding the fact that the new building would come within the same use class as the buildings to be replaced, I find that because of its mass, it would be a materially larger replacement. I therefore conclude that the replacement building would be inappropriate development for the purposes of paragraphs 87 and 89 of the Framework. There would also be conflict with exception (v) under Policy Co1 of the Local Plan because the partial replacement of the dwelling would involve development that would be materially larger than the structures to be replaced. The development because of its inappropriateness would, by definition, be harmful to the Green Belt and I therefore conclude that great weight should be given to that harm.

¹ APP/L3625/D/15/3067600

² Tandridge District Council v Secretary of State for Communities and Local Government and Jason Syrett [2015] EWHC 2503 (Admin)

Green Belt Openness

10. The building would be sited approximately 40 metres from Wolvers Hall, beyond the trees and shrubs that separate the formal lawned grounds to the north and east of the house from the open fields beyond those grounds. While the new building would be sited within the existing tennis court, I consider that the court area, including its perimeter fencing, has an essentially open character that is compatible with the Green Belt's openness. Although the garage and sheds to be replaced are quite widely distributed they read as being clearly associated with Wolvers Hall and in my opinion their presence is not harmful to the openness of the Green Belt.
11. The replacement building would be a permanent structure and when that characteristic is taken with its mass and siting I find that it would result in an enduring loss of openness. In this respect I consider that the consolidation of the buildings to be replaced would not assist in maintaining the Green Belt's openness. I also consider that the building's siting would amount to encroachment within the countryside and would thus be in conflict with the Green Belt's third purpose, as identified in paragraph 80 of the Framework. The fact that the building would be in part screened by the trees, would not avoid the fact that this scheme would involve an increase in permanent built development in the Green Belt.
12. I therefore conclude that the development would give rise to a permanent loss of openness within the Green Belt, which would be contrary to paragraphs 79 and 80 of the Framework and Policy Co1 of the Local Plan. However, the loss of openness would be of a localised nature and therefore weighs moderately in addition to the harm to the Green Belt that would arise from the development's inappropriateness.

Other Considerations

13. I am sympathetic to the appellants' wish to provide accommodation for their relatives. However, very limited information has been provided about what the specific needs of those relatives might be. On the basis of the available information I am therefore unable to determine whether the scale of the annexe accommodation is commensurate with the need identified by the appellants. I find the appellants' reluctance to be more forthcoming about this matter to be unhelpful to their case and accordingly I attach little weight to this aspect of their case.
14. I recognise that the existing garage building is subject to subsidence, is of no particular architectural merit and its removal would improve the appearance of the locally listed building. However, I consider it likely that an improvement to Wolvers Hall's appearance could be achieved by constructing a more sympathetically designed replacement garage. It has also been argued that extending Wolvers Hall would be an inappropriate way of safeguarding the appearance of this property while providing annexe accommodation. On the available evidence I see no reason why it would not be possible to extend Wolvers Hall in a manner that would be sympathetic to its appearance. I am therefore of the opinion that the appellants' case with respect to providing an extension capable of accommodating a replacement garage and/or an annexe attracts little weight.

15. The tennis court is discretely located relative to Wolvers Hall and I therefore consider that its presence is causing no adverse effect on the locally listed building's setting. In my opinion the removal of the tennis court would therefore have a neutral effect on the setting to Wolvers Hall. I also consider that while the design of the annexe building of itself is unobjectionable, that attribute of the development attracts minimal weight, given the expectation under paragraph 56 of the Framework that all new development should be well designed.
16. I recognise that Class E permitted development (PD) rights for a building or buildings that would be incidental to the enjoyment of Wolvers Hall would potentially be available to the appellants. I also acknowledge that the use of those PD rights could have implications for the Green Belt's openness. While a replacement garage would be a building incidental to this property's enjoyment, the proposed annexe accommodation would not come within the scope of the Class E PD rights. I therefore consider that the availability of Class E PD rights does not amount to a fallback position in this instance, because their use would not provide the appellants with the annexe accommodation they are seeking. I therefore consider that this aspect of the appellants' case attracts little weight.
17. I recognise that the development would have no adverse effect on the living conditions of other residents in the area and could be accommodated without detriment to the trees within the vicinity of the site. While those matters weigh in favour of the development, I consider that the weight attributable to them is minimal.

Conclusions

18. For the reasons given above I conclude that the matters raised by the appellants in support of the development do not outweigh the substantial harm to the Green Belt by reason of the development's inappropriateness and the harm that would be caused to the Green Belt's openness. Accordingly there are not the very special circumstances necessary to justify inappropriate development within the Green Belt. I therefore conclude that the development would be contrary to Policy Co1 of the Local Plan and the Framework and that the appeal should be dismissed.

Grahame Gould

INSPECTOR