

Appeal Decision

Site visit made on 3 January 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 25th January 2017

Appeal Ref: APP/J3720/W/16/3158830

Harwood House, Penn Lane, Wood End, Tanworth-in-Arden B94 5HH

- 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 M Hartle against the decision of Stratford on Avon District Council.
 - The application Ref 15/04059/FUL, dated 5 October 2015, was refused by notice dated 18 March 2016.
 - The development proposed is demolition of the existing dwelling and removal of 2no. storage containers and the erection of a replacement dwelling with detached carport.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing dwelling and removal of 2no. storage containers and the erection of a replacement dwelling with detached carport at Harwood House, Penn Lane, Wood End, Tanworth-in-Arden B94 5HH in accordance with the terms of the application, Ref 15/04059/FUL, dated 5 October 2015, subject to the conditions set out in the Schedule to this decision.

Procedural matters

2. The description of development given in the heading above is taken from the appeal form and is also the one used by the Council in its decision notice. I have adopted this description as it provides the most accurate and comprehensive definition of the proposal.
3. The Council's decision notice refers to Saved Local Plan (LP) Policy PR.2. However, since the Council made its decision it has adopted the Stratford on Avon District Core Strategy 2011 to 2031 (2016) (the CS). Accordingly, Saved LP Policy PR.2 no longer forms part of the development plan. Nevertheless, the Council's decision notice also referred to [at the time emerging] CS Policy CS.10 in addition to the National Planning Policy Framework (the Framework) and it is against these policies that the appellant has based his statement of case and the basis on which I have therefore determined the appeal.

Main Issues

4. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
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- If the development would be inappropriate, the effects on the openness of the Green Belt; and
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

5. Paragraph 89 of the Framework establishes 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. The exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The Framework requirements are closely reflected in CS Policy CS.10.
6. The proposal is for the replacement of a single storey timber clad dwelling with a two storey development to provide a new dwelling. In addition there are two steel storage containers on the site set away from the main building. These would be taken away and a car port would be erected in roughly the same position. A tennis court surrounded by a high mesh fence would also be removed as part of the proposal.
7. Within his statement of case, the appellant has provided a comparison between the respective sizes of the existing and proposed developments. This indicates that the proposed replacement dwelling would represent an increase in volume over and above that of the existing building of about 26%. Whilst the proposal would result in a smaller footprint, the floor area would increase. I note that there is a discrepancy in the appellant's combined floor area calculation (of 230 sqm) due to not having added that of the proposed car port (32.2 sqm). The Council has also provided calculations that show figures in relation to volume and floor area to be 28% and 57% respectively.
8. However, the variance in the respective parties' calculations appears to result from a dispute over whether the figures should include the two existing storage containers. I note that the containers are the subject of an application for a Lawful Development Certificate, which has not yet been determined. Whilst there is nothing in the available evidence to suggest that a certificate would be forthcoming, conversely there is nothing to suggest that it would not. The appellant has provided a Statutory Declaration stating that the containers were present on the land when he purchased it around 12 years ago and there is nothing before me to cast doubt on the validity of this evidence. Accordingly, including the car port, the proposed volume increase would be about 18.5% and it is this figure upon which I rely.
9. Overall, in my view, although the appearance of the proposal would be very different, for the above reasons, it would not amount to a dwelling that would be materially larger than the one it would replace.
10. The proposed reduction in levels would comprise an engineering operation. The Framework states that engineering operations are not inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. Given that the proposed works involve lowering the levels, I do not

consider that this would have any effect on reducing openness. Accordingly this aspect of the proposal would not be inappropriate development in the Green Belt.

11. Because of my above conclusions, I do not need to consider the effects on the openness of the Green Belt or any other considerations that may indicate the existence of very special circumstances necessary to justify inappropriate development. Taking all of the above into account, the proposal would not conflict with the Green Belt objectives of CS Policy CS.10 or the Framework.
12. In coming to this view, I have taken account of the greater height and potential prominence of the proposal. However, such matters only fall for consideration where the proposal would constitute inappropriate development in the Green Belt and thus as part of considerations related to openness and wider visual effects.

Conditions

13. I have had regard to the various conditions suggested by the Council and the appellant, having also had regard to paragraph 206 of the Framework and Planning Practice Guidance. Those imposed are based on the suggestions but with some variation where necessary in the interests of clarity and precision.
14. I have specified the approved plans as this provides certainty. A materials condition is necessary in order to ensure that the appearance of the development is satisfactory. For the same reason, a condition relating to the treatment of external areas is also necessary. Given that the site levels are to be altered, it is necessary to impose a condition requiring precise details to be submitted in the interests of clarity and to ensure the appearance of the development is satisfactory. In order to protect the openness of the Green Belt, it is necessary to impose a condition restricting permitted development rights. In order to ensure that no part of the original dwelling is retained, and to secure the removal of the existing storage containers, conditions are imposed to require their respective demolition and removal from the site.
15. The Council has suggested a number of highways related conditions. However, there is no clear evidence to suggest that there would be any significant difference between the existing and proposed developments in terms of their highway effects and such conditions are therefore unnecessary. A soft landscaping condition has also been suggested but I do not consider it necessary to condition the landscaping of a private garden. Neither have I imposed the Council's suggested condition relating to the provision of a water butt as I am not convinced that it would be necessary to refuse the whole permission without its imposition.

Conclusion

16. I have found that the proposal would not be inappropriate development in the Green Belt and that it would not therefore conflict with the Framework and the development plan as a whole. For the above reasons and having had regard to all other matters raised, the appeal succeeds.

Hayden Baugh-Jones

Inspector

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Drawing No 287_AR_320_001_B; Existing Site and Building Drawing No 287_AR_300_001; General Arrangement Proposed Plans and Elevation Drawing No 287_AR_120_001_D; Car Port General Arrangement Drawing No 287_AR_120_002_A.
- 3) No development above slab floor level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. Development shall be carried out in accordance with the approved sample details.
- 4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include
 - i) earthworks showing existing and proposed finished levels or contours;
 - ii) means of enclosure and retaining structures;
 - iii) boundary treatments;
 - iv) vehicle parking layouts;
 - v) other vehicle and pedestrian access and circulation areas;
 - vi) hard surfacing materials;
 - vii) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, etc.)

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015) or any Order revoking or re-enacting that Order with or without modification, no development covered by Part 1 Classes A, E and F or Part 2 Class A of Schedule 2 to that Order shall be carried out without planning permission.
- 7) Within 1 month of the occupation of the replacement dwelling hereby permitted, the existing dwelling identified on drawing 287_AR_300_001 shall be demolished in its entirety and all waste materials arising from the demolition shall be removed from the site.
- 8) Within 1 month of the occupation of the replacement dwelling hereby permitted, the 2 storage containers identified on drawing 287_AR_120_001_D shall be removed from the site.