

Appeal Decision

Site visit made on 17 January 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 26 January 2017

Appeal Ref: APP/W0530/W/16/3157894

Pleasant View, Ely Road, Landbeach CB25 9NW

- 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 John Barham against the decision of South Cambridgeshire District Council.
 - The application Ref S/1300/16/FL, dated 17 March 2016, was refused by notice dated 12 July 2016.
 - The development proposed is described as 'Resubmission of previously withdrawn application S/2794/14/FL. Demolishing of existing derelict house and construction of replacement dwelling at Pleasant View, Ely Road, Landbeach.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the existing building and the surrounding area;
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify the proposal?

Reasons

Whether Inappropriate Development?

3. The appeal property is a detached dwelling set within the Cambridge Green Belt. Policy GB/1 of the Council's Development Control Policies 2007 (DCP) presumes against inappropriate development in the Green Belt. Whilst the policy refers to the now superseded Planning Policy Guidance 2: Green Belts, paragraph 87 of the National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt. Framework paragraph 89 advises that the construction of new buildings in the Green Belt will be inappropriate except in specified cases. These include the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.
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4. Neither party has drawn my attention to any policies or guidance on the definition of 'materially larger.' However, DCP Policy HG/7 states that one for one replacement dwellings in the countryside will be subject to a maximum enlargement of 15% measured by volume.
5. The proposed dwelling would replace the existing house on the site, albeit that the new building would be set back further from the road. The Council advises that the existing dwelling has a floor area of some 163 square metres (sqm) excluding the garage. However the garage is positioned close to the dwelling and can be regarded as an adjunct to it. As such, it would be reasonable to take it into account in deciding whether the new building would be materially larger. I have not been provided with the floor area of the garage. However, it is capable of accommodating only one car and, therefore, fairly modest in size.
6. Planning permission was granted in 2012 for extensions to the existing dwelling¹ and I saw on the site visit that concrete foundations have been laid to the rear of the building. However, no above ground works have taken place and the foundations do not add to the size of the existing building. Case law² has held that it is the extent of physical development on the site, without regard for any unbuilt permitted development, which establishes the baseline for the considering whether a replacement building would materially larger for the purposes of Framework paragraph 89. That said, it was also held that the existence of unbuilt permitted development could be relevant as a fall-back position in the consideration of whether very special circumstance exist. Therefore, I return to consider the extension below.
7. The replacement dwelling would have a floor area of 405 sqm. Therefore, even making an allowance for the garage, the floor area of the new building would be around twice that of the existing building on the site. On this basis, I consider that it would be materially larger and, therefore, inappropriate development in the Green Belt contrary to DCP Policy GB/1 and Framework paragraph 87. Neither party has provided information of the volumes of the existing and replacement buildings. Therefore, it is not possible to conclude on whether or not the proposal would comply with DCP Policy HG/7.

Openness

8. The existing dwelling sits within a generous plot. I understand that the timber cabin to the north of the dwelling was erected in connection with the proposed extension and is not, therefore, a permanent structure. The appeal site is otherwise free of built development and, therefore, contributes to the openness of the Green Belt. Whilst the overall widths and depths of the existing and replacement buildings would be broadly similar, I have already found that the floor area of the replacement building would be materially larger. As a result, the new building would have significantly greater scale and bulk, particularly at first floor level.
9. The appellant also advises that the ridge level of the replacement building would be some 0.7m higher than the extended building (and therefore the same distance higher than the existing building). However, this would be achieved by reducing the ground level around the replacement building by

¹ Application reference S/2241/12/FL

² *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin)

some 0.4m. Therefore, the visible height of the replacement building would be around 1.1m taller overall.

10. Moreover, the replacement building would be set back further into the site, with an extensive area of hardstanding between the existing access and the front of the building. This would increase the developed area of the area compared with the existing situation.
11. Consequently, the proposal would lead to a loss of openness of the Green Belt. Framework paragraph 79 identifies one of the essential characteristics of the Green Belt as its openness and paragraph 88 advises that substantial weight should be given to any harm to the Green Belt.

Character and Appearance

12. The appeal site is located outside any defined settlement, in an area of essentially linear residential development mainly comprising substantial detached dwellings. Many of these dwellings sit within generous plots, although the appeal site is significantly larger, and has a wider road frontage, than most others. Therefore, notwithstanding that I have found that the proposal would lead to a loss of openness of the Green Belt, it would allow for the retention of generous spaces on both sides of the new building. The new building would be set back from the road further than the existing dwelling, or its neighbours. Nevertheless the part of the site in which the new building would be located is residential in character, and given the generous width of the site and the gaps between buildings, I consider that its siting would not disrupt the prevailing pattern of development or undermine the rural character of the area.
13. The Council has expressed concern regarding the effect of the proposal on the scale and character of the existing building. However, since the proposal is to replace this building, I am not persuaded that it would have the feared effect. There is nothing to suggest that the appearance of the new building would be objectionable. As such, I find that the proposal would not be harmful to the character and appearance of the existing building or the surrounding area. It would not, therefore, conflict with DCP Policy HG/7 to the extent that it requires replacement dwellings to be in character with their surroundings and not materially impact on the countryside.

Other Considerations

14. Based on the appellant's figures, if implemented, the 2012 planning permission for the extension to the existing building would increase the total floor area to some 340 sqm, including the garage. This would be around 65 sqm less than the proposed replacement building.
15. The extension would not increase the height of the existing building. The additional floor space would be mainly to the rear of the existing building and at first floor level. The overall dimensions of the ground floor footprints of the replacement and extended buildings would be broadly similar. The replacement building would, however, have significantly greater bulk at first floor level and, for the reasons set out above, be significantly taller.
16. The Council and the appellant disagree over whether the 2012 permission was implemented before it expired. However, even if I were to accept that the permission has been implemented and represents a realistic fall-back position,

by virtue of its greater floorspace, bulk at first floor level and overall height, I consider that the replacement building would be materially larger than the extended building.

17. The appellant makes the point that, in granting the 2012 permission, the Council must have concluded that the proposed extension did not amount to a disproportionate addition over the size of the original building in order to comply with Framework paragraph 89 (third bullet point). Nevertheless, for the reasons set out above, the replacement building, would be larger still and would not, therefore, represent a benefit over the extended building in terms of Green Belt policy. Consequently, I give limited weight to the planning permission for the extended building as a fall-back position.
18. The appellant has also referred to another scheme for a larger extension to the appeal property³. However, since that scheme was refused planning permission on the grounds of disproportionality, it carries minimal weight.
19. The appellant argues that, by positioning the replacement building further from the road, it would reduce the effect of traffic noise on future occupants. Whilst the proposal may have that benefit, there is no substantive evidence to show that the existing or extended building would not provide satisfactory living conditions for future occupants. This limits the weight that I attach to the claimed benefit.

Very Special Circumstances

20. The proposal would be inappropriate development and would lead to a loss of openness of the Green Belt. I have found that the proposal would not lead to other harms. Nevertheless, the Framework advises that substantial weight should be given to any harm to the Green Belt.
21. On a collective basis, the other considerations outlined above do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and the loss of openness. Consequently, it has not been demonstrated that the very special circumstances necessary to justify the development exist.

Conclusion

22. The proposal would not accord with the provisions of the development plan when read as a whole and the harm that I have identified means that it would not satisfy the environmental dimension of sustainable development.
23. For these reasons, the appeal should be dismissed.

Simon Warder

INSPECTOR

³ Application ref: S/1295/12/FL