



Appeal Decision

Site visit made on 3 May, 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 26th June, 2017

Appeal Ref: APP/G2245/W/17/3166642

Shelleys, Shelleys Lane, Knockholt, TN14 7PH

- 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 Marco Williams against the decision of Sevenoaks District Council.
 - The application Ref: SE/16/01294/FUL dated 28 April, 2016 was refused by notice dated 8 December, 2016.
 - The development proposed is demolition of existing dwelling and 4 no. outbuildings, erection of a new replacement dwelling (with basement level) and 3 no. outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and 4 no. outbuildings, erection of a new replacement dwelling (with basement level) and 3 no. outbuildings at Shelleys, Shelleys Lane, Knockholt, TN14 7PH in accordance with the terms of the application, Ref: SE/16/01294/FUL, dated 28 April, 2016 and the plans submitted with it, subject to the conditions set out the schedule to this decision.

Main Issues

2. The site sits within the Green Belt, and accordingly the main issues are:
 - a) whether the development would constitute inappropriate development in the Green Belt;
 - b) its effect on the openness of the Green Belt and the purposes of including land in it; and
 - c) if the development would be inappropriate, 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 needed to justify it.

Reasons

Whether the development would constitute inappropriate development

3. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate development in the Green Belt. These categories include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy GB4 of the Sevenoaks District Council Allocations and Development Management Plan 2015 (the ADMP), reflects the

provisions of the Framework and provides a local interpretation of what constitutes a materially larger building. It states that the gross floor area of a replacement dwelling can be up to 50% greater than the floor area of the original dwelling.

4. Shelleys is a former farmhouse of traditional design associated with a number of traditionally built outhouses set around a former farmyard. There were also further outhouses and a pool room which have been destroyed in a fire. The appeal proposal would comprise the removal of the main dwelling and four remaining outhouses, and their replacement with a building of two storeys and basement, and three new outhouses for garage and storage use.
5. The buildings to be replaced are lawful and permanent in nature, and their replacements would be in the same use. Although the Council has excluded the pole barn from its calculations on the grounds that it is open sided and of lightweight construction, and the appellant has stated his disagreement with this, he has nonetheless excluded it from his own calculations. However, it appears to me that lightweight construction does not preclude a structure from being permanent in nature.
6. The fourth bullet point of Paragraph 89 of the Framework refers to the replacement of 'a building'; however, case law indicates that, providing consideration is given to the relationship of the buildings to each other and to the issue of openness, then there is no reason that the objectives of Green Belt policy cannot be met by the application of the replacement exception to a group of buildings as opposed to a single building. In this case, the proposal relates to a principal dwelling and series of ancillary structures, grouped around an open yard. They would be replaced with a new dwelling and outhouses with a similar ancillary and spatial relationship to it, albeit on a different orientation. It therefore appears to me that it would be appropriate to consider them as a group in establishing whether the objectives of Green Belt policy could be met, including consideration of the effect on openness.
7. The appellant has provided floor area measurements for the original dwelling and three outbuildings, excluding the Pole Barn, with which the Council does not disagree. However, it is the Council's contention that, while the replacement outbuildings would represent a small decrease in floor area, the proposed floor area of the main house would represent an increase of 52.48% over the original, and that it would therefore fail to comply with Policy GB 4 of the ADMP. The appellant has calculated that the increase would be 49.47%, but has not taken into account areas beneath porches and balcony canopies, which account for the discrepancy between the parties' figures.
8. For the purposes of Policy GB 4 the floor area is to be measured externally. As the areas below the porch and balconies would be defined by the projections above them and any external supports or enclosing walls, and would be areas which would be useable, it appears to me to be reasonable to include them in the calculation of floorspace.
9. However, in calculating the increase in floor area, the Council has considered the main dwelling and the group of outhouses separately rather than in combination. For the reasons given above, it appears to me to be more appropriate in assessing the overall effect of the proposal on the Green Belt to consider the existing buildings as a single group. If the increase in floorspace is calculated for the whole group, combining the floor areas of the main house

and all the outhouses, even without taking into account the pole barn, but including the additional new floor area identified by the Council, the floor area created by the appeal proposal at around 1,060m² would not exceed the maximum allowed increase of 1,105m².

10. As a result I conclude that the appeal buildings would not represent an increase in floorspace of 50% over that of the original buildings, and would not be materially larger. The proposal would therefore comply with Policy GB 4 of the ADMP, and would comprise not inappropriate development within the Green Belt in relation to the replacement of the existing buildings.
11. The Council does not dispute with the appellant that the appeal site could be considered as previously developed land. Paragraph 89 of the Framework includes an exception relating to the limited infilling or partial or complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. I consider this below.

Effect on openness

12. The existing house is stepped into the slope of the land, and set on a terrace overlooking a further terrace including a vehicle turning circle. The proposed dwelling would have a basement, which would not be visible from outside the building, and would have some terracing around it. Site sections provided by the appellant indicate that it would be set more deeply into the land than the existing building, to achieve a ridge height which would be no higher above Ordnance Datum (OD) than that of the existing building.
13. The existing outbuildings are set around a large hard surfaced former farmyard, formerly defined on the east side by buildings now lost. The proposed outbuildings would be set around a formal, landscaped space of similar scale. They would be set into the land to the extent that their ridge heights would be significantly lower in relation to OD than those of the existing outbuildings.
14. The proposed dwelling would have a different roof form from that of the shallow pitched existing roof, being more steeply pitched and with a number of projecting gables. It would as a result have an increased ground to ridge height, which would create a building of greater scale and bulk, although these appear to me not excessive for a substantial domestic building. Since, however, the increased floorspace of the dwelling would be accommodated in a relatively compact form, rather than by the creation of a significantly more sprawling footprint, and since the increase in height and bulk would be partially mitigated by embedding the proposed dwelling more deeply into the hillside, I conclude that its greater scale and bulk would not have a significant effect on openness.
15. Thus, I consider that as the proposed development would not increase encroachment into the countryside physically or visually, it would not conflict with the purposes of including the land in the Green Belt, nor would it conflict with policy GB4 of the ADMP, where it requires that the design and volume of replacement dwellings in the Green Belt do not materially harm the openness through excessive scale, bulk or visual intrusion, nor with policy LO1 of the Local Development Framework Core Strategy 2011 (CS) which seeks to protect the rural character of the district, nor with Policy LO8 which seeks to maintain

the extent of the Green Belt, nor with the recommendations of the Development in the Green Belt SPD, 2015.

16. As I have found that the proposed development would not have a greater impact on openness than that existing, I conclude that it would not, either, be inappropriate development in relation to the redevelopment of a previously developed site, and would not conflict with Paragraph 89 of the Framework in that respect.

Other considerations

17. The brick-built farmhouse is of some age and traditional design, but has been extensively altered internally, to the extent that it has very little historic interest beyond its exterior shell. Paragraph 135 of the Framework states that in weighing applications that affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. As in this case the significance of the heritage asset has been largely lost, I conclude that, although as a result of the appeal proposal that significance would be entirely lost, the harm that would result would be minimal. It would not therefore create a disbenefit which would weigh against the proposal.

Conclusion

18. Paragraph 88 of the Framework advises that “very special circumstances” 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. As however, I have concluded that the proposal would not be inappropriate development, and would not be harmful to the Green Belt in terms of openness, and as I have not identified any additional harm, it is not necessary to identify very special circumstances.
19. For the reasons given above therefore, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Conditions

20. The Council has supplied suggested conditions, on which the appellant has had an opportunity to comment. I have taken them into account in applying conditions to this decision.
21. For the avoidance of doubt, a condition is added requiring implementation of the proposal in accordance with the approved plans. In the interests of protecting the character and appearance of the area, details of facing materials are reserved by condition. A condition securing the demolition of existing structures on site before new buildings are started is added in the interests of preventing inappropriate development in the Green Belt.
22. I have also added a condition requiring approval of details of outside lighting in the interests of limiting the effects of light pollution on the landscape and wildlife. The appellant has provided an Extended Phase 1 Habitat assessment and surveys confirming the presence of bats, the consequent need for an EPS licence to continue with the works, and a low likelihood of Great Crested Newts. Bearing in mind the encouragement to enhance biodiversity in the Framework, I have added a condition requiring additional wildlife surveys in order to protect the site’s ecological value and identify opportunities for its enhancement.

Conditions relating to the approval of landscaping details and the maintenance of the landscaping are added in order to protect the character and appearance of the area, and a condition is applied in relation to the construction of the access drive in order to protect the mature trees in its vicinity.

23. A condition is also added to secure the provision of safe charging for electric vehicles in order to support the shift to low emission electrical vehicles.
24. The National Planning Policy Framework is clear at Paragraph 200 that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. No such justification has been put before me, and I have not, therefore, applied such a condition.

S J Buckingham

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: 0684 L 001/E; 002/D; 003/D; 004/B; 005/B; 006/F; 007/D; 008/F; 009/E; 010/G; 011/D; 012/F; 013/D; 014/F; 016/D; 017/B; 018/C; 019/B; 020; 023; L(EX)002/A.
- 3) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
- 4) The works comprising the new buildings hereby permitted shall not take place before the demolition of the existing dwelling, all existing outbuildings as shown on drawing L(EX)002/A and any other buildings erected and not shown on the approved drawing are completed, and the resultant materials removed from the site.
- 5) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the buildings hereby permitted are occupied. Development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of development, including any demolition or vegetation clearance, appropriate surveys for bats, Great Crested Newts and breeding birds, and full details of appropriate measures to minimise impacts on and enhance the biodiversity and nature conservation value of the site shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in full accordance with the details so approved prior to the first occupation of the development.
- 7) 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) soft plantings including trees, grass and turf areas, shrub and herbaceous areas; their location, species and size.
 - ii) means of enclosure and retaining structures;
 - iii) hard landscaping; and
 - iv) any other landscaping features forming part of the scheme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with an agreed implementation programme.
- 8) All landscaping works comprised in the approved details of landscaping shall be completed during the first planting and seeding seasons following practical completion of the development hereby approved, or in accordance with a programme agreed by the local planning authority, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or

diseased shall be replaced in the next planting season with others of similar size and species.

- 9) No works or development shall take place until details of the foundation design and construction method for the approved access drive, and details of measures for the protection of trees located on the eastern boundary of the site shall have been submitted to and approved in writing by the local planning authority. No works or development shall take place other than in accordance with the approved details.
- 10) No development shall take place until details of a scheme to facilitate the safe charging of electric vehicles has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved prior to the first occupation of the dwelling hereby approved.