
Appeal Decision

Site visit made on 3 July 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 31 July 2017

Appeal Ref: APP/N0410/W/17/3173249

Chapel Lawn, Hawkswood Grove, Fulmer SL3 6JF.

- 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 & Mrs D Brackin against the decision of South Bucks District Council.
 - The application Ref 16/01540/FUL, dated 17 August 2016, was refused by notice dated 17 October 2016.
 - The development proposed is a new replacement detached dwelling, detached garage and detached summerhouse.
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Decision

1. The appeal is allowed and planning permission is granted for a new replacement detached dwelling, detached garage and detached summerhouse at Chapel Lawn, Hawkswood Grove, Fulmer SL3 6JF in accordance with the terms of the application, Ref 16/01540/FUL, dated 17 August 2016, subject to the conditions set out in the schedule to this decision.

Main Issue

2. The appeal site is located within the Green Belt, and accordingly the main issues are:
 - Whether the proposal would be inappropriate development for the purposes of the "*National Planning Policy Framework*" (the Framework);
 - The effect of the proposal on the openness of the Green Belt; and
 - If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other relevant harm it would cause, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

3. The Framework establishes that the construction of new buildings is inappropriate in the Green Belt unless, amongst other things, it would amount to the replacement of a building, provided the new building is in the same use and is not materially larger than the one it replaces. I shall refer to this as the relevant Framework exception. The Council acknowledge that Policies GB1 and

GB11 of the "*South Bucks District Local Plan 1999*" are inconsistent with the Framework. I have therefore defaulted to advice in the Framework.

4. The appeal site currently contains a modestly proportioned bungalow of limited architectural merit together with a collection of small ancillary outbuildings. The bungalow is sited discreetly in a residential area washed over as Green Belt. According to the Council, the existing dwelling rises to a height of 5.4m and has a floor area of 85m².
5. It is proposed to demolish the existing bungalow and erect a larger 1.5 storey, 4-bedroom property. The submitted plans show the dwelling would be approximately 6.25m in height with a floor area of 340m², an increase of 295%. The appeal scheme also includes a detached double garage and a summerhouse bringing the total floor area of the development to 420m². By any reasonable estimation that is a substantial increase. Consequently, there can be little doubt that the proposed building would be materially larger than the one it replaces.
6. I conclude therefore that the relevant Framework exception is not met, and that the proposal would amount to inappropriate development. The Framework states that such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

7. The key element of openness, in the context of the Green Belt, is the absence of built development rather than the presence of views or a sense of spaciousness. Although, the footprint of the proposed dwelling would not be excessive in relation to the size of the plot overall, it would still be significantly larger than the existing dwelling. This combined with the proposed height increase would contrast markedly with the scale of the existing building. I therefore conclude that the proposal would result in a loss of openness in both visual and spatial terms.

Other considerations

8. Paragraph 88 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm if very special circumstances are to exist.
9. The appellant draws attention to the existence of permitted development (PD) rights which benefit the existing bungalow. It is argued that in the event the appeal is dismissed the appellant's would exercise these rights which would result in a larger, less aesthetically pleasing building than that currently proposed. Although the relevant Framework exception does not refer to structures which might be constructed under PD rights, I consider it is appropriate to consider the implications of the various stated fallback positions in turn.
10. There is an extant planning permission for a roof extension¹ which, if implemented, would result in the creation of a first floor. However, there would be no material increase in the footprint of the bungalow and the permission would remove PD rights. As such I concur with the Council's

¹ LPA Ref: 15/01235/FUL

assessment that the level of harm to the green belt would not be comparable to the appeal scheme.

11. A certificate of lawfulness has been granted for a detached double garage and 3 outbuildings (a summerhouse, gym and office)². However, the exception in the Framework refers to the replacement of "a" building and to "the one" which is replaced. I take that, in the context of the proposal, to refer to the bungalow, and given the degree of physical separation between the outbuildings and the bungalow I am not convinced that the former should necessarily be regarded as part of the latter. Nonetheless, the collective footprint of the outbuildings is a material consideration to be taken into account in the overall planning balance.
12. More significantly, the Council has confirmed that prior approval is not required for a series of 8m long side and rear extensions³ (the PD scheme). The floor area of the PD scheme would amount to some 297.73m² or an increase of 247.65%. This would be a smaller increase than the appeal scheme. It would also be limited to a single storey. However, if the summerhouse, gym and office were also to be erected this would add a further 129.84m² bringing the total to 427.57m² which is some 7.5m² more than the appeal scheme. Overall the floor area of the two schemes would therefore be similar. Although the appeal scheme would be taller than the PD scheme, this would be offset by its smaller footprint. I therefore consider that there would not be a significant difference between the appeal and PD schemes in terms of their effect on the openness of the Green Belt.
13. It is apparent from the plans and computer generated images submitted by the appellant that the design and appearance of the appeal scheme has been carefully considered and would reflect the style, proportions and detailing of other nearby properties. By contrast, the PD scheme would have a stark and incongruous appearance by virtue of its anomalous squat proportions and a contrived three-pronged extension. As such there can be little doubt that the PD scheme would cause significant harm to the character and appearance of the area.
14. I agree with the Council that the internal arrangement of the PD scheme would be somewhat unorthodox. Nonetheless I have no reason to conclude that it would not meet the appellant's pressing need for additional living space. It was evident from my site visit that the existing house is in a poor state of repair and clearly in need of modernisation if it is to provide a good living environment. In view of this, the costs and works associated with extending the building under the PD scheme would be a viable and realistic option. Consequently, I believe there is a strong likelihood that the appellant's would proceed to build the PD scheme if I were to dismiss the appeal.
15. I have noted the Council's view that there is no reason to believe the PD scheme would be constructed. However, there is precious little before me to explain how the Council arrived at that view. Thus I consider the PD scheme as presented by the appellant would be a justifiable fallback situation and accordingly I attach significant weight to it.

² LPA Ref: 15/02415/CLOPED

³ LPA Ref: 15/02448/GPDE

Other Matters

16. I note that the Inspector in the Bakers Wood case⁴ came to a different view with regards to the stated fallback position. However, there are few details before me of that scheme and so I cannot be sure the circumstances are the same as in the current appeal.
17. The Council's second reason refers to prospect of further applications for similar forms of development if the appeal is allowed. However, no other sites to which these arguments might apply have been put forward and any such proposals would be judged on their individual merits. Accordingly this is not a matter to which I have attached any great degree of weight.

Conclusions

18. The proposal would be inappropriate development in the Green Belt. The Framework clearly states that inappropriate development is harmful to the Green Belt, and that substantial weight should be attached to that harm. Moreover, I have found that the development would result in harm to the openness of the Green Belt.
19. In favour of the scheme is a clearly identified and viable fall-back position. When considered alongside other lawful development this would result in more built development than is currently proposed. Although the two schemes would be broadly similar in terms of their effect on the openness of the Green Belt, the discordant nature of the fall-back scheme would cause significant harm to the character and appearance of the area and in that regard the appeal scheme is at a clear and demonstrable advantage.
20. Therefore considered in the round, I consider that the fall-back position in this particular case carries significant weight in support of the proposal. I therefore conclude the benefits of the appeal scheme over the fallback position would, on balance, outweigh the harm by reason of inappropriateness and would amount to the very special circumstances necessary to justify the proposed development. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should succeed.

Conditions

21. I have considered the conditions suggested by the Council against the advice in the "*Planning Practice Guidance*". I have imposed a condition specifying the approved plans as this provides certainty. Materials conditions are necessary to ensure the satisfactory appearance of the development. In the interests of protecting the openness of the Green Belt a condition restricting permitted development rights is necessary.
22. In the absence of any justification from the Council, I do not find it necessary to require the landscaping of a private garden. Furthermore, I am not persuaded on the evidence before me that it is necessary to obscure glaze the first floor landing window to protect the privacy of neighbouring occupiers.

D. M. Young

Inspector

⁴ PINS ref: APP/N0410/W/15/3138875

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: 160628-08 Rev A, 160628-09 Rev A, 160628-11, 160628-12, 160628-13 and 160628-14.
- 3) No development above slab level shall take place until details of the materials to be used in the elevations of the development hereby permitted have been submitted to and approved by the District Planning Authority in writing. Thereafter the development shall be carried out in accordance with the approved details.
- 4) No development above slab level shall take place until details samples of the materials to be used in any hard surfacing of the application site have been submitted to and approved by the District Planning Authority in writing. Thereafter the development shall be constructed using the approved materials.
- 5) Notwithstanding the provisions of Article 3 and Classes A, B & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 2015 (or any Order revoking and re-enacting that Order with or without modification) , no enlargement, improvement or other alteration (including the erection of a garage, stable, loosebox or coach-house within the curtilage) of or to the dwellinghouse the subject of this permission, shall be carried out nor shall any building or enclosure required for a purpose incidental to the enjoyment of any said dwellinghouse as such be constructed or placed on any part of the land covered by this permission.