
Appeal Decision

Site visit made on 11 July 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 14th August 2017.

Appeal Ref: APP/C3430/W/17/3172549

**Orchard House, Tom Lane, Bobbington, Stourbridge, South Staffordshire
DY7 5EN**

- 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 S Pass against the decision of South Staffordshire District Council.
 - The application Ref 16/00693/FUL, dated 2 August 2016, was refused by notice dated 21 October 2016.
 - The development proposed is described as "proposed replacement dwelling".
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at Orchard House, Tom Lane, Bobbington, Stourbridge, South Staffordshire DY7 5EN in accordance with the terms of the application, Ref 16/00693/FUL, dated 2 August 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three 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 1071 01; Proposed Elevations 1071 04; Proposed Site Layout Plan 1071 05; Proposed Ground Floor Plan 1071 06; Proposed First Floor Plan 1071 07.
 - 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
 - 4) The development hereby permitted shall not be brought into use until the parking and turning areas have been provided in accordance with the approved plans. The parking and turning areas shall be retained for that purpose thereafter.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within the following classes shall be carried out unless expressly authorised by this permission: Schedule 2, Part 1, Classes A, B, C, D and E.
 - 6) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in
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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.

Main Issues

2. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
- The effect on the openness of the Green Belt;
- If the proposal would be inappropriate development, whether the 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 circumstance required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

3. The appeal property is a detached house, which lies within the West Midlands Green Belt.
4. The Framework establishes that new buildings within the Green Belt are inappropriate development. Exceptions to this 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 GB1 of the Core Strategy¹ states that development acceptable within the terms of national planning policy set out in the Framework will normally be permitted. Further guidance is contained in the Council's 'Green Belt and Open Countryside' Supplementary Planning Document (SPD), April 2014. This advises that, in order to judge what would be considered materially larger, a range of floor area increases of between 10–20 percent will be used.
5. It is proposed to demolish the existing house and replace it with a contemporary, flat roofed house in a similar location to that existing, but extending further to the rear. The existing garage/store, located to the side of the house, would be retained.
6. The Council calculates that the existing building has an external floor area of approximately 253 square metres, whereas the proposed building would have a total external floor area of approximately 427 square metres. This is significantly greater than the 10-20 percent increase suggested in the Council's SPD. Although the parties differ in terms of the exact figures, it is clear that if the proposal were to be constructed, the size of the replacement dwelling would be materially larger than the original. It would, therefore, be inappropriate development which is, by definition, harmful to the Green Belt.

Effect on openness

7. The dwelling would be set back from the road by approximately 100 metres and the height of the flat roof would be marginally lower than the ridge height

¹ South Staffordshire Council Core Strategy: Development Plan Document, adopted 11 December 2012

of the existing house. It would be located within the spacious garden where it would be relatively well screened from public viewpoints. Nevertheless, the proposal would increase the bulk and size of the building and, consequently, it would inevitably affect the openness of the Green Belt. However, in isolation, the loss of openness would be minimal.

Other harm

8. The appeal property is one of a small group of dwellings located close to a junction of rural roads. The surrounding area is predominantly agricultural, with trees and hedgerows defining the field and property boundaries. The nearby houses are sporadic in layout, and vary in size and design.
9. Concerns have been expressed by interested people about the contemporary design of the building. Whilst it would be visible from several public viewpoints, the house would not be overly prominent due to its set back from the lane. The house would have a very different appearance to the existing house due to the design and use of materials. There is no defining character to the houses in the vicinity and, therefore, little justification for development to conform to certain forms or styles. The Framework advises that decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative. The design would be original and different, but I do not agree that it would be harmful in this location. The contemporary design and use of modern materials in itself is not a reason to reject the scheme. Overall, I find that the development would not be harmful to the character and appearance of the area.
10. I have considered other concerns, including that the development would set a precedent for similar schemes. The house has been specially designed to meet the needs of the appellant and there is no evidence that other schemes would come forward. In any event, every case is determined on the basis of its own site specific circumstances and merits, and it does not follow that similar development would be acceptable elsewhere.
11. I have also considered the concerns about the potential impact of the development on trees and a private sewer. However, there is no evidence that trees would be removed or that the sewerage facilities would be inadequate.
12. I note the concerns about the plot size and I saw the extent of the domestic garden, as opposed to adjoining arable land within the appellant's ownership, during my site visit. However, this has little bearing on the appeal.

Other considerations

13. Planning permission was granted in 2008 for two storey rear extensions (Ref 08/00510/FUL), which has been renewed recently (Ref 16/00991/FUL). This has not been implemented but both parties agree it would have increased the floor space to approximately 290 square metres. In addition, a Lawful Development Certificate has been granted for two single storey side extensions (Ref 14/00332/LUP) which, if constructed, would add a further 68 square metres of floor space. The Council calculates that if the additional floorspace of the previously approved application and certificate are included in the calculations, the overall increase in floor space would be around 20 percent, which would be within the guidelines set out in the SPD.

14. I am satisfied that it has been demonstrated that there is a reasonable prospect that the extensions would be built. In this case, the proposed development would not be materially larger than the extended building it would replace. Moreover, the bulk of the extended building would be greater than the proposed development due to the side extensions and the higher ridge height. Overall, I consider that this amounts to a valid 'fall-back' position to which I attach considerable weight.

Conclusion

15. The proposal would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be a minimal loss of openness. Whilst I have found there would be no harm to the character and appearance of the area, or any other harm, this is a neutral factor which does not weigh for or against the proposal.
16. However, considerable weight is attached to the fall-back position. On balance, I find that this other consideration clearly outweighs the totality of harm. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.
17. Although the development would conflict with Policy GB1 of the Core Strategy, which seeks to limit the size of replacement dwellings in the Green Belt, it would accord with the Framework in that very special circumstances have been demonstrated.

Conditions

18. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans as this provides certainty. I have also imposed conditions to require the approval of materials and finished levels in order to ensure the development complements its setting. I have imposed the Council's suggested condition requiring the parking area and turning area to be completed to ensure vehicles can enter and exit the property safely.
19. The condition removing permitted development rights is necessary to ensure development at the site does not have an unacceptable effect on the openness of the Green Belt.

Conclusion

20. For these reasons given above, the appeal is allowed.

Debbie Moore

Inspector