



Appeal Decision

Site visit made on 16 October 2017

by Clive Tokley MRTPI

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

Decision date: 23 October 2017

Appeal Ref: APP/G2245/D/17/3180452

Pax, Eynsford Road, Eynsford, Dartford, DA4 0BG.

- 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 Andrew and Mrs Kim Miller against the decision of Sevenoaks District Council.
 - The application Ref SE/17/00407/HOUSE, dated 1 February 2017, was refused by notice dated 21 June 2017.
 - The development proposed is described as Demolish wood part of building with concrete fibreboard roof. Rebuild single storey extension in brick.
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Decision

1. The appeal is allowed and planning permission is granted to demolish the wooden part of the building with concrete fibreboard roof and rebuild single storey extension in brick, at Pax, Eynsford Road, Eynsford, Dartford, DA4 0BG. The permission is in accordance with the terms of the application ref SE/17/00407/HOUSE dated 1 February 2017 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) No development shall be carried out until details of finished floor levels of the proposal and details of the treatment of the area around the proposal as indicated on the proposed site plan (including the levels of that area) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing/Proposed Site Plan date stamped by Sevenoaks District Council 10 February 2017 and Drawing No 140211/1 Rev A.

Main Issues

2. The main issues are:-
 - a. Whether the proposal would be inappropriate development in the Green Belt as defined by the National Planning Policy Framework (The Framework)
 - b. The effect of the proposal on the openness of the Green Belt.

- c. The effect of the proposal on the Kent Downs and High Weald Area of Outstanding Natural Beauty (AONB) countryside.
- d. If the proposal is inappropriate development whether there are any other considerations that clearly outweigh the harm to the Green Belt due to inappropriateness and any other harm and whether very special circumstances exist to justify the granting of permission.

Reasons

Inappropriate development

- 3. The Framework indicates that within Green Belts the construction of new buildings is normally inappropriate development; however in Paragraph 89 it identifies a range of developments which may not be inappropriate. These exceptions include specific provisions for the enlargement or replacement of a building.
- 4. Bullet point 3 of Paragraph 89 indicates that the extension or alteration of a building; provided that it does not result in disproportionate additions over and above the size of original building may not be inappropriate. Bullet point 4 indicates that provided that it is not materially larger than the one it replaces the replacement of a building may not be inappropriate development. The definition of "building" in S.336 of the Act states that a building includes "any part of a building" and therefore bullet point 4 may be applied to complete buildings or parts of them.
- 5. The Council's analysis of the proposal includes two sets of figures. In one of them the original floorspace is indicated to be 48sq m whereas in the other it is 78sq m. Cross referencing stated dimensions with scaled measurements the submitted drawing number 140211/1 Rev A is not to be relied on to provide precise measurements. However it is sufficiently accurate to indicate an "order of" figure for the floorspace of the original building. My assessment indicates that the lower figure is more likely to be accurate. The appellant does not challenge the Council's view that from that starting point the increase in size as a result of the proposal would be 145%. Based on the approach adopted by the Council the proposal would conflict with Policy GB1 of the *Sevenoaks District Allocations and Development Management Plan 2015* (ADMP).
- 6. The appeal dwelling comprises two main elements joined by a narrow link. The appeal proposal would result in one of those elements, the original building and the three small additions to it, being replaced, in its entirety, by the new building. The later addition (1959 permission) would be retained. Whilst the proposal would result in an overall increase in size of 145% as compared with the original building almost all of that increase would be accounted for by the replacement of the existing building. Taking account of the character of the dwelling and the extent to which the existing building would be demolished I consider that it would be both logical and reasonable to consider the proposal as the replacement of part of the building as provided for by bullet point 4 of Framework Paragraph 89.
- 7. When considering replacement buildings the Framework indicates that the size of the replacement should be compared with the existing building that would be replaced. The Council's calculations indicate that the overall difference in size between the existing and the proposal would be under 10sqm. This would

roughly equate to the corridor alongside the only part of the existing dwelling that would remain; therefore the replacement building would have almost the same floorspace as the building that it would replace. I consider that with an overall increase in size of about 9% the proposal would not be materially larger than the building that it would replace. I therefore conclude that the proposal would accord with bullet point 4 of Framework Paragraph 89 and it would therefore not be inappropriate development.

Openness

8. The officer report concludes that by creating a close association between the two principal elements of the building the proposal would represent a small benefit to the openness of the Green Belt. I have no reason to disagree with this assessment.

AONB countryside

9. The building would be set back some distance from the road in a plot that is bounded by trees and hedges. It would be set at a lower level than the retained building and its design and materials would blend with that building. The building may be visible in distant view across the valley but it would at least conserve the character of the landscape. The small scale of the proposal is such that it would be almost imperceptible in the wider landscape and therefore it would be unreasonable to expect the AONB landscape to be enhanced by it.

Other considerations

10. Both the planning application and the Grounds of Appeal refer to a proposal permitted in 2009 (ref SE/09/01090/FUL). The Council does not challenge the appellants' observation that the development then permitted was identical to the current proposal; however the officer report gives no indication of the weight that should be given to that now-expired permission.
11. The previous permission is a material consideration; however in the light of my conclusions on the main issues there is no need for me to consider this matter further.

Conditions

12. The Council recommends a condition requiring that "prior approval" is obtained from the Local Planning Authority for a range of "permitted development" within Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). The Council indicates that the condition is needed to prevent inappropriate development in the Green Belt.
13. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Further advice is found in The Planning Practice Guidance which indicates that conditions restricting the future use of permitted development rights "will rarely pass the test of necessity and should only be used in exceptional circumstances". The proposal would have a very limited effect on the area and the extent to which permitted development rights would be available to the occupiers of the dwelling. The GPDO does not differentiate between Green Belt and other locations and the Council gives no indication why

the circumstances of this proposal should be regarded as exceptional such as to justify the removal of nationally bestowed rights. I therefore conclude that the condition would fail the tests set out in Paragraph 206 of the Framework.

14. The Council's recommendation of a detailed landscaping condition is imprecise in its scope and meaning. Taking account of the position of the building the proposal would have no impact on the public domain. I therefore consider that a landscaping condition for the whole site is unnecessary. The submitted site plan indicates a new patio area and steps to allow for access to the proposal. However limited information is provided and in the interests of clarity I have imposed a condition requiring that the finished levels of the proposal and the treatment of the areas around the building are submitted to the Council for approval. The determination of levels, of necessity, must be carried out at the outset of the development and therefore the condition requires that details are approved prior to commencement.
15. Taking account of the scale and nature of the proposal a scheme of ecological enhancement as indicated in Policy SP1 of the Sevenoaks Core Strategy is not necessary to make the proposal acceptable. A planning condition as recommended by the Council is therefore not justified.
16. I have imposed the usual conditions controlling the commencement of development and identifying the approved drawings.

Conclusion

17. I have concluded that the proposal would conflict with Policy GB1 of the ADMP; however I consider that taking account of the extent to which the proposal would replace a significant part of the existing building it should be regarded as a replacement building. On that basis, and in the particular circumstances of this proposal, I have concluded that the proposal would not be inappropriate development in the Green Belt as defined by the Framework. I have not identified any other harm arising from the proposal. Taking account of all matters I have concluded that the appeal should succeed.

Clive Tokley

INSPECTOR