
Appeal Decision

Site visit made on 21 November 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 29th November 2017

Appeal Ref: APP/K2230/W/17/3179791

Drysdale House, Wrangling Lane, Luddesdown DA13 0XF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Trevor Forrest against Gravesham Borough Council.
 - The application Ref 20161157, is dated 28 November 2016.
 - The development proposed is erection of a two storey circular rear extension with first floor side extension and including the demolition of numerous outbuildings.
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Decision

1. I allow the appeal and grant planning permission for erection of a two storey circular rear extension with first floor side extension and including the demolition of numerous outbuildings at Drysdale House, Wrangling Lane, Luddesdown DA13 0XF in accordance with the terms of the application, Ref 20161157, dated 28 November 2016, subject to conditions 1) to 7) on the attached schedule.

Application for Costs

2. An application for costs was made by Mr Trevor Forrest against Gravesham Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The Council failed to determine the application and had not submitted an appeal Statement or putative reasons for refusal. However, there had been a previously refused application reference number 20160268, and although the present proposal differs from that, it is reasonable to consider the following main issues, having mind to the Green Belt location;
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant Development Plan policies.
 - The effect of the proposed extension on the openness of the Green Belt.
 - The effect of the proposed extension on the character and appearance of Wrangling Lane, within the Kent Downs Area of Outstanding Natural Beauty and the Luddesdown Down landscape character area.
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Policy

4. The Development Plan includes the Gravesham Local Plan Core Strategy and Policy CS01 concerns sustainable development, with Policy CS02 setting out policy for the scale and distribution of development, which outside settlements will be supported where it is compatible with national policies for protecting the Green Belt and other policies in the Plan. Green infrastructure is the subject of Policy CS12, stating that the greatest weight is to be given to the conservation and enhancement of the landscape and natural beauty of the Kent Downs Area of Outstanding Natural Beauty. Policy CS19 sets out design principles.
5. The Gravesham Local Plan 1st Review contains saved Policy C13 on extensions to dwellings in the countryside, the supporting text to which refers to Policy MGB2 of the abolished Kent Structure Plan. The Council's interpretation of that policy is of seeking to maintain the open character of the Green Belt and retaining a stock of small dwellings. This second limb was not a reason for refusal previously. Despite these out-of-date references, the Policy, when read alongside the Framework on Green Belts, sets criteria that will be used in the assessment to this Decision. The policy begins with the statement that extensions to dwellings will be considered on their merits.
6. A Landscape Character Assessment of the Luddesdown Downs has been published, with the requirement to assess development proposals within the area to maintain the character of sparse and distinctive built development.
7. The Kent Downs Area of Outstanding Natural Beauty Management Plan contains Policy LLC1 supporting the protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Area, and Policy LLC2 which states that the promotion, management, restoration and appropriate creation of prominent views and viewpoints will be supported.

Green Belt

8. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt is inappropriate development, but goes on to list exceptions. The third exception is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
9. Policy C13 provides the local context for that assessment with criteria expected to be satisfied. It is concluded now that criteria (i), (iii), (iv), (v) and (vii) are either met or are not applicable. Criterion (ii) states that there will be an overall limit of one third of the gross floor area of the original dwelling (measured externally) prior to any later extension or alteration, unless the increased floor-space has no overall effect on the existing bulk and appearance of the dwelling; and criterion (vi) states that the appearance, massing, scale, form and materials of any extension shall be appropriate to the existing dwelling and the Green Belt setting.
10. The appellant sets out the calculations, taking account of a previous addition to the 'original' building, which in this case is that which existed in 1948. The result is a 39.1% increase, as opposed to the 33.3% limit allowed in Policy

C13, but as stated in the criterion, that figure may be exceeded depending on the effect.

11. The appellant has referred to another appeal Decision in Gravesham that considered Policy C13 and paragraph 89 (Ref; APP/K2230/D/16/3156172), but it is clear that the Inspector there was considering a largely subterranean addition, and that as a matter of fact, the alternative in criterion (ii) was met, notwithstanding the reasonably large scale of the proposed additional floor space, cited variously as being 36.75%, or between 37% and 47%.
12. The fact in the present appeal case is that there would be an overall effect on the existing bulk and appearance of the dwelling, since the proposal involves a significant 2 storey addition of the circular part, and the addition of a whole new floor of accommodation where only a single storey wing exists at present. The alternative in criterion (ii) is therefore not met.
13. The increase of 39.1% would exceed the 33.3% limit set in the first part of Criterion (ii) and having mind to the fact that the applicability of Policy C13 is to extensions to dwellings in the countryside and not just those parts within the Green Belt, the excess is too great not to be considered a disproportionate addition over and above the size of the original building in the Green Belt. The proposed removal of buildings elsewhere on the site does not assist in the calculation as they are not part of the dwelling, but they will be considered in the Green Belt balance, after any other harm has been identified. For the reasons detailed above, it is concluded the proposal is inappropriate development in the Green Belt.

Openness

14. The addition of the circular addition would have an effect on openness, but limited due to the location of the proposal relative to an internal return corner of the existing building and the limited extent of through views. The first floor extension would have a more profound effect due to the lack of any built form in that location and at that height.
15. However, in the case of *Goodman v SSCLG* [2017] EWHC 947 (Admin) it was held that it is relevant to take into account visual perception as a factor which may reduce the spatial harm from the effect of a development on the openness of the Green Belt, although the judgment accepted that reference to the judgment should have regard to the narrow basis on which the parties' cases had been argued. Nevertheless, the valley floor location, with the first floor addition being aligned north-south along the valley, the presence of substantial foliage preventing long views and the first floor addition being largely subsumed into background tree growth in east-west views all serve to limit the perception of the proposal reducing openness.
16. There would be a reduction in openness as a matter of fact, but there would be no adverse effect on the five purposes of the Green Belt as the addition does not represent encroachment into the countryside, and the others do not apply to this location. To conclude, in addition to the harm by reason of being inappropriate development in the Green Belt, there would be a limited reduction in openness. Nevertheless, as stated in paragraph 88 of the Framework, substantial weight should be given to any harm to the Green Belt.

Character and Appearance

17. This is the subject of Policies CS12 and CS19, as well as criterion (vi) of Policy C13. Paragraph 56 of the Framework states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
18. The present house is an interesting example of its age, and displays many of the defining features of the 'art deco' architectural style such as the horizontal emphasis, the roof terraces at various levels and the expression of the internal stairs as a vertical window. The render appears to be a dark pebble-dash which is a 1930's treatment, although classic 'art deco' buildings tend to use smooth render and then traditionally in white. The house does not display the clean, crisp appearance that it should, but this is a matter for maintenance, and possibly repair. Its present landscape or garden setting is lacking.
19. The proposed additions would follow the ethos of the style and would improve its massing and presentation, introducing features of architectural interest and reconciling the weak arrangement of the single storey wing, replacing it with an addition that includes a further area of roof terrace and reinforcing the horizontal lines. The increase in bulk that counts against compliance with Policy C13 criterion (ii) as a matter of fact results in a more attractive building in the terms of criterion (vi).
20. The proposed appearance, massing, scale, form and materials would be appropriate to the existing dwelling and would not cause visual harm to the Green Belt, the Area of Outstanding Natural Beauty or the landscape character of the Luddesdown Downs, maintaining and enhancing the character of sparse and distinctive built development. In addition to compliance with Policy C13(vi) the proposal would accord with Policies CS12 and CS19 and the design is of the standard sought in paragraph 56 of the Framework.

Other Considerations

21. Harm has been found to the Green Belt through being inappropriate development and through a reduction in openness, the latter being limited in its visual effect. Paragraphs 87 and 88 of the Framework state that inappropriate development should not be approved except in very special circumstances, which 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.
22. The conclusion with regard to the effect on the character and appearance of the area is that the proposed additions would enhance the presentation and architectural interest of the building. This enhancement is a consideration of substantial weight, introducing an interesting and historically appropriate addition, including the proposed new curved steps, canopy and balcony, fitting the building for continued beneficial use.
23. The removal of a various dilapidated buildings and the remains of other enclosures such as the one-time kennels would be an enhancement to the landscape and would, as a matter of fact, improve the openness of the site. The opportunity to secure improvements to the immediate landscape or garden setting of the building through conditions would be a benefit. This is a

consideration of substantial weight based on the poor arrangement seen at the site inspection.

24. This is a building that deserves greater care and attention and whilst it might be feasible to bring that about without the proposed development, the improvements to the accommodation give the opportunity for a thorough-going refurbishment of the external appearance of the building and its setting, secured by conditions.
25. In the Green Belt balance, whilst the harm to the Green Belt carries substantial weight, there is no other identified harm and the considerations over the enhancement of the building and its setting, including the removal of various unattractive and dilapidated structures dispersed over a considerably area of the site lead to the conclusion that the harm is clearly outweighed by other considerations, so that the very special circumstances required in order to allow the development have been shown to exist.

Conditions

26. The Council did not provide a list of suggested conditions although the Scientific Officer did seek a condition regarding remediation of possible contamination, which would most likely concern the previous kennel buildings. The considerations that lead to the conclusion on the Green Belt balance are based on those buildings being removed and replaced with suitably landscaped open land, and any contamination could be dealt with then. A condition is required to ensure that their removal takes place. It is noted that the appellant refers to '*the demolition of the existing dilapidated outbuildings over a period of time*' but that is not precise enough to allow the inappropriate development.
27. In that connection, the appellant offers the removal of permitted development rights with regard to use of the outbuildings as dwellings under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, even if their physical condition did not militate against compliance with Class Q.1.(i)(i)(aa) on the extent of works necessary, any planning condition attached to this permission would not operate until development had commenced. The aim of arranging the removal of those offered, and hence the benefits that have been weighed in this Decision, can be secured through a requirement for a contract, arrangement or agreement being in place prior to commencement.
28. The other benefits that amount to very special circumstances need to be secured by conditions otherwise they cannot be relied upon in the Green Belt balance. They are essential items that have to be part of the permission, and the sanction would be to prevent occupation of the addition without their having been carried out, or through some other mechanism agreed between the appellant and the Council.
29. Lastly, a condition is required detailing the drawings to which this permission relates, for the avoidance of doubt and in the interests of the proper planning of the area.

Conclusions

30. Due to the increase in size and the effect on the existing bulk and appearance of the dwelling, the proposal is inappropriate development in the Green Belt.

An analysis of the harm compared with the benefits has concluded that very special circumstances exist provided that the benefits can be assured by condition. There would therefore be a most welcome improvement in the presentation of the building and policies of the Development Plan as well as national policies on the protection of landscape character and the promotion of good design are met. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

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: DH01rev3 Site Plan, DH02rev3 Existing and Proposed Plans, DH03rev3 Existing and Proposed Elevations, DH04rev3 Volume Calculations.
- 3) The materials to be used in the extension hereby approved are to match those used in the original building, unless otherwise agreed in writing by the Local Planning Authority subsequent to the submission of details.
- 4) 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) planting plans and the establishment of lawn areas in the vicinity of the building;
 - ii) earthworks in the vicinity of the building showing existing and proposed finished levels or contours;
 - iii) vehicle parking layouts;
 - iv) hard surfacing materials in the vicinity of the building;
 - v) external lighting fitted to the extensions, if any;
 - vi) landscape remediation where outbuildings are to be demolished;
 - vii) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme.

- 5) No development shall commence until a contract has been let, or other arrangements made, or agreements entered into, with the Local Planning Authority, to secure the removal of the buildings shown to be removed on drawing DH01rev3. The extension shall not be occupied until the removals and making good of the landscape have been completed as agreed.

- 6) The extension hereby permitted shall not be occupied until the steps, curved balcony and curved canopy shall have been constructed in accordance with details shown on submitted drawings DH02rev3 and DH03rev3, and these features shall be retained thereafter.
- 7) The applicant shall undertake a watching brief during construction and demolition in case any contamination issue is encountered. If during development any contamination is found, the Local Planning Authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the Local Planning Authority as to the appropriate measures to be taken to resolve the matter and they have been informed that those measures have been carried out.