



Appeal Decision

Site visit made on 7 November 2017

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 14th December 2017

Appeal Ref: APP/M3645/W/17/3181846

Chartcroft Lodge, Pastens Road, Limpsfield RH8 0RE

- 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 J Pannett against the decision of Tandridge District Council.
 - The application Ref TA/2017/623, dated 27 March 2017, was refused by notice dated 1 June 2017.
 - The development proposed is the demolition of the existing dwelling and garage and construction of a new dwelling and garage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs J Pannett against Tandridge District Council. This application is the subject of a separate Decision.

Procedural Matter

3. There would appear to be an error in the appellants' figures. The floor area and volume of the proposed games room is 229 m² and 229 m³ respectively. Based on the figures shown on the plans it would seem that the games room would have a volume of 229 m³ and a footprint of 72 m². The error in relation to the floorspace is carried forward into the subsequent calculations, including the total footprint of the permitted development buildings, the base footprint figure and the percentage increase of new over existing. I find these figures to be 144 m², 384 m² and the reduction in footprint to be approximately 40%. These compare to the appellant's figures of 301 m², 541 m² and a 57.7% reduction in floorspace. I have determined the appeal on the basis of the amended figures above.

Main Issues

4. I consider the main issue to be whether the proposal would be inappropriate development within the Green Belt, and if so, 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 necessary to justify the development.

Reasons

Inappropriate Development

5. Chartcroft Lodge is a detached dwelling. In September 1960 planning permission was granted for the conversion of the original coach house to residential accommodation. An extension to the dwelling was permitted 1992 for a single storey rear extension to provide a kitchen and bathroom for disabled person accommodation. This permission has been implemented. In July 2002 an appeal¹ seeking the retention of a carport together with an access deck and a spiral staircase was refused. The reason for refusal was that it would be a disproportionate addition over the size of the original dwelling and would therefore constitute inappropriate development.
6. There is a difference of opinion between the parties as to whether the existing dwelling is single storey or two storey. There are two bedrooms on the upper floor situated partially within the roof space and two further habitable rooms on the ground floor as well as a kitchen and bathroom. In addition there is a large single storey garage which adjoins the eastern elevation of the dwelling. The site is separated from Chartcroft by way of an informal boundary.
7. The appellant describes the appeal property as a substantial residential detached residential property. I disagree. The rooms are modest in size and although there are two floors of accommodation, the upper floor is largely situated within the roof void.
8. The proposal is for a two storey dwelling with a detached double garage. It is also proposed to provide a new access and to realign the boundary between Chartcroft and the appeal property. There are a number of single storey buildings within the revised curtilage of the property which it is proposed to remove.
9. The development plan includes the *Tandridge Local Plan Part 2: Detailed policies 2014-2029* (adopted 2014) . Policy DP10 states that inappropriate development will only be permitted where very special circumstances exist, any potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by very special circumstances. Policy DP13 states that new buildings within the Green Belt will be regarded as inappropriate development other than for specified categories of development. These include the replacement of buildings where the proposed new building is in the same use as the building it is replacing and is not materially larger than the building it is replacing. The accompanying text to policy DP13 states that the criteria are based on those contained within the National Planning Policy Framework (NPPF).
10. Figures submitted by the appellant indicate that the existing dwelling has a volume of about 520 m³, this figure increases to 693.90 m³ when the outbuildings are included. The Council has not disputed the appellant's calculations or put forward any alternative figure. I have therefore assessed the proposal on the basis of the figures provided by the appellant, other than in relation to the floorspace error referred to above. Accordingly the proposed dwelling would have a volume of 1030.90 m³, increasing to 1132.72 m³ when the garage is included.

¹ APP/M3645/A/02/1101425

11. The appellants contend that any assessment as to whether the proposal would be materially larger than the building it would replace should take account of the size of the outbuildings within the revised curtilage. They rely on the judgement in respect of *Tandridge DC v SSCLG & Syrett* [2015] EWHC 2503 (the *Castlenau* judgement) in support of this view. This judgement held that the question of whether more than one building may be taken into account in the context of the “not materially larger” test at policy DP13 and paragraph 89 of the NPPF is to be determined on the facts by reference to the objectives of Green Belt policy.
12. In the *Castlenau* case the additional buildings in question, were found to be ancillary to the residential use of the existing house and not widely dispersed around the site. The Inspector found that the replacement of the ancillary buildings and the dwelling, with an appropriately sized dwelling, would not be at odds with the fundamental aim of Green Belt policy, which is to keep land permanently open. The decision did not indicate that all of the outbuildings within the curtilage of a property should be taken into account, but that the inclusion of ancillary buildings is a matter of judgement based on the facts of the case.
13. In this appeal the two detached garages are located reasonably close to the existing dwelling, whilst the summerhouse and greenhouses are some distance away. Moreover, the summerhouse falls clearly within the curtilage of Chartcroft and lies outside of the existing site boundary. When taken together these structures have a combined volume of about 40 m³. Having regard to the *Castlenau* judgement I am doubtful that the greenhouses and summerhouse could reasonably be taken into account when assessing the size of the building to be replaced. Based on the appellants’ figures and including all of the existing outbuildings on the site, the proposed dwelling and garage would represent an increase in volume of about 439 m³, which would represent an increase in volume of about 63%. If the summerhouse and greenhouses are excluded the figures increase to 477.72 m³ and 72%.
14. The appellants also contend that the various extensions and Class E buildings that could be constructed using permitted development rights should be taken into account in assessing whether the proposal is materially larger than the building(s) it would replace. Whilst the appellants’ permitted development rights are a material consideration to be weighed in the overall planning balance, these buildings do not exist at the present time and therefore cannot reasonably be considered to contribute to the size of the existing building.
15. Whilst the increase in volume is a useful starting point in order to assess whether a building would be materially larger than the one it would replace, it is not the only factor to be considered when assessing size. Details submitted by the appellants indicate that the proposal would have a reduced footprint by comparison with the existing buildings on the site (229.00 compared to 240.40), however if the greenhouses and summer house are excluded there would be a slight increase.
16. The proposed dwelling would be two storeys high, but with a single storey games room to the front. It would have an overall width of 14.4 metres and depth of 16.7 metres, and would be about higher than the dwelling it would replace with a much bulkier roof, and considerably higher than the attached

garage or any of the outbuildings. Overall the proposed building would be significantly greater in height and massing than the buildings it would replace.

17. The appellants suggest that there would only be an 18% increase in volume. However, this assessment is not based on the existing building but relies on the inclusion of extensions and class E buildings other than the games room that could be constructed using permitted development rights.
18. I therefore conclude that regardless of whether all of the existing ancillary buildings on the appeal site are taken into account, the proposal would be materially larger than the building it would replace. Consequently the proposal would be inappropriate development contrary to policy DP13 of the Local Plan and the NPPF. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other Harm to the Green Belt

19. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
20. The appellant submits that the proposal would increase the openness of the Green Belt due to the reduction in built development. However, this assessment is reliant on the inclusion of buildings that do not exist on the site at the present time, but could be constructed using permitted development rights. Therefore it is not reflective of the impact of the proposal on the openness of the Green Belt. For the reasons given above these buildings are a material consideration in relation to the appellants' fallback position, and this is matter to be weighed in the overall planning balance, rather than in terms of the impact of the proposal on the openness of the Green Belt.
21. Openness is one of the essential characteristics of the Green Belt and should be differentiated from visual impact. Therefore the fact that the existing dwelling is smaller than many others in the road is not relevant to the consideration of openness which means the absence of buildings or development. When compared to the existing buildings there would be a significant loss of openness. It is also evident that the existing building is considerably larger than the original building, and has therefore has given rise to a reduction in the openness of the Green Belt. Whilst the proposal would have a reduced footprint by comparison with the existing buildings, this is reliant on the removal the existing ancillary buildings. These are modest in size with a low overall height, whilst the appeal proposal is for a substantial two storey dwelling with a double garage. Due to the size of the proposed buildings relative to those currently on the appeal site there would be a significantly loss of openness adding to the harm by reason of inappropriateness.

Other Considerations

22. The appellants consider that when their permitted development rights, including those under principalClass E of the Town and Country Planning (General Permitted Development) (England) Order 2015, are taken into account the resultant development would have a materially greater impact on the Green Belt by comparison with the appeal scheme.

23. Drawings submitted by the appellants show a single storey extension to the side of the dwelling closest to the road. In addition, the plans show a substantial roof extension. There does seem to be some discrepancy between the floor plans and elevations, in that the existing roof is not shown on the west elevation. It would also seem that the roof extension extends over the existing courtyard. The plans also show a single storey games room between the road and the dwelling, and an enlarged outbuilding to the opposite side of the dwelling.
24. The Council does not dispute that some extensions and/or outbuildings could theoretically be constructed using permitted development rights. However, it contends that it has not been demonstrated that those shown on the appellants' plans would be lawful and are technically feasible. The Council has also expressed doubt that the appellants would implement the permitted development scheme since the discussions with the Council have focussed on a replacement dwelling. The appellants confirm that if the appeal is unsuccessful it would be their intention to construct the extensions and buildings shown as permitted development and to retain the existing buildings. I agree that the resultant dwelling would not be particularly attractive and it would also be a costly option. Notwithstanding this, I have no reason to doubt that it is the appellants' intention to proceed with this alternative scheme if the appeal is dismissed.
25. The Council refers to a previous LDC application which was refused. I understand that this application determined that the principal elevation of the original dwelling house was the south facing elevation. On this basis the appellants' suggested Class E outbuilding and single storey extension would be situated on land forward of the principal elevation and therefore would not be permitted development. It is not the purpose of this appeal to determine whether the scheme shown on the appellants' plans would be permitted development. However, given the complex planning history of the appeal site, the Council's view as to the potential lawfulness of the proposed extensions/buildings, and my own reservations in relation to the roof extension, there is insufficient information for me to conclude that the extensions and outbuildings shown on the submitted plans would be permitted development. Therefore the comparative harm arising from the permitted development scheme cannot be fully assessed.
26. Notwithstanding my concerns above, I have considered the potential impact of the appellants' fallback position, assuming that it was found to be lawful and technically feasible. The existing dwelling and curtilage buildings combined with the extensions and the additional Class E buildings shown on the plans would have a greater volume than the appeal scheme (1184.30 m³ against 1132.72 m³), and a reduced footprint. Notwithstanding this, the buildings would be low in terms of overall height and would be smaller in scale and less obtrusive than the appeal scheme. The permitted development scheme would also avoid the engineering operations associated with the appeal scheme in terms of the realignment of the access and the provision of the garage.
27. Even if the existing outbuildings are taken into account, together with the extensions to the dwelling shown on the appellants' plans the resultant dwelling would still be materially larger than the dwelling it would replace, both in terms of volume and overall scale. The new dwelling would benefit from permitted development rights, including rights in relation to Class E buildings. Whilst it is

possible to impose planning conditions to restrict permitted development rights, I note that the appellants are not agreeable to Council's suggested conditions that seek to limit permitted development rights in relation to roof alterations and class E buildings. Therefore, ultimately the scale of development on the appeal site could exceed that shown on the submitted plans giving rise to a further loss of openness. This consideration reduces the weight to be attributed to the appellants' fallback position.

28. I consider that should the appellants implement the extensions shown on the submitted plans the impact of the proposals would differ from the appeal scheme. The buildings would be smaller in scale and in my view would give rise to lesser harm by comparison with the appeal scheme.
29. The appellants suggest that the Council usually use a 'rule of thumb' which accepts that a 30% increase in the size of dwellings would not be deemed to be materially larger. They refer to policy RE9 of the previous development plan which they state was more specific and permitted a 30% increase in the size of replacement dwellings. I have not been provided with policy RE9, however, since it no longer forms part of the development plan it is not material to the determination of this appeal.
30. I have considered the various committee reports submitted by the appellants in support of their view. It would seem that the Council has previously used the figure of 30% as broad indication as to whether a proposal would represent a material increase in the size of the dwelling and also took account of some potential extensions using permitted development rights. However, the submitted reports generally pre-date the existing development plan and the NPPF. Moreover, I note that although potential permitted development rights were taken into account in some cases, the assessment made was between the size of the proposal in relation to that of the original dwelling and not the existing dwelling. This approach differs from that which the appellants invite me to take, namely the inclusion of the existing dwelling and curtilage buildings together with buildings which could potentially be constructed using permitted development rights.
31. The appeal property was used as a garage and coach house prior to its conversion to a dwelling. The original residential use provided four habitable rooms with a floorspace of about 85 m². A further 25 m² (excluding the garages) was provided prior to 1992. Evidence submitted with the appeal, including documents relating to the 2002 appeal, suggest that original property had a volume of about 240 m³. The existing house and attached garage now have a volume of about 520m³. The appeal scheme would add a further 438m³ over and above the volume of all of the existing buildings on the site. Consequently the appeal scheme would exceed the 'rule of thumb' figure many times over if it was based on the size of the original dwelling as indicated by the submitted reports. Consequently these other decisions do not add weight in favour of the proposal.
32. I am required to determine the appeal in accordance with the development plan. Neither policy DP13, nor the accompanying text, refer to a 30% increase in volume. I consider the purpose of the term 'existing dwelling' rather than 'original dwelling' is to enable any previous extensions to a dwelling to be taken into account.

33. The Council does not allege any harm to the character and appearance of the area or the living conditions of neighbouring residents. However, these matters do not weigh in favour of the proposal, they merely do not add to the harm. The proposed dwelling would be more energy efficient than the one it would replace and would include measures to limit CO2 emissions in accordance with policy CSP14. This matter weighs in favour of the proposal.
34. I acknowledge support for the proposal from nearby residents, who consider that the appeal scheme would be an improvement by comparison with the existing building on the site. However, local support or opposition for a proposal is not in itself a ground for refusing or granting planning permission and such support does not justify the harm to Green Belt that I have identified above.

Very Special Circumstances

35. The proposal would represent inappropriate development within the Green Belt. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would also give rise to additional harm through loss of openness. The NPPF requires that substantial weight is given to any harm to the Green Belt and confirms 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.
36. For the reasons given above, there is insufficient evidence for me to conclude that the extensions and buildings that form the appellants' fallback position would be both lawful and feasible. Even if they were to be found to be so, I consider that the harm arising from them would be less than that arising from the appeal scheme. Consequently the appellants' fallback position does not add weight in favour of the proposal. The benefits of a more energy efficient dwelling add some limited weight in favour of the proposal.
37. I have also had regard to the other decisions the submitted by the appellants. These do not appear to support their view that the Council generally considers a 30% enlargement to an existing dwelling to be lawful. Moreover, even if this were the case, the appeal scheme would increase the size of the existing dwelling by more than double this amount. Therefore these other decisions do not weigh in favour of the appeal proposal.
38. I therefore find that these other consideration taken separately, or together, do not clearly outweigh the substantial harm that would be caused to the Green Belt. Consequently, very special circumstances do not exist to justify the proposal.

Conclusion

39. I conclude that the proposal would fail to comply with the development plan considered as a whole, and for the reasons given above, and taking account of all material considerations, I conclude that the appeal should be dismissed.

Lesley Coffey

INSPECTOR