



Appeal Decision

Site visit made on 24 April 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 2 August 2019

Appeal Ref: APP/H2265/W/18/3219535

Stoneacre, Copt Hall Road, Ightham, Sevenoaks TN15 9DT

- 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 Thomas James against the decision of Tonbridge & Malling Borough Council.
 - The application Ref: TM/18/01869/FL, dated 2 August 2018, was refused by notice dated 26 October 2018.
 - The development proposed is the demolition of dwelling and garage. Erection of a dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is within the Metropolitan Green Belt (MGB) and accordingly the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - 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

Whether the proposal would be inappropriate development in the Green Belt

3. Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy (2007)(CS) sets out that national policy concerning Green Belt will be applicable to land within the MGB. Paragraph 145 of the National Planning Policy Framework (the Framework) makes it clear that the construction of new buildings within the Green Belt will be regarded as inappropriate save for certain categories of development which may be regarded as not inappropriate.
4. One such exemption at paragraph 145(d) provides for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The Framework does not define a specific threshold to assess whether a proposal is materially larger.

5. The appeal site consists of a chalet bungalow that is part single and part double storey together with a single storey double detached garage set within spacious garden curtilage. Given the presence of mature and dense vegetation the appeal site is largely enclosed. However, due to land levels rising upwards from the highway along the access driveway, the existing dwelling and garage are readily visible, albeit within a short section of the highway.
6. The proposal would replace the existing dwelling and garage with a two-storey dwelling including a basement and living accommodation within the roof space. It would be set back from the footprint of the existing dwelling and located further away from the common boundary with the neighbouring dwelling which is positioned at the end of the access driveway. As such, its position would be more centrally located within the appeal site where it would be less visible from public viewing points.
7. I note the appellant's comments that the Council's calculation of volume within the Officer Report was flawed as it failed to take into account the dimensions of the existing garage. The Council have not contested this matter any further. In support, the appellant has provided appeal decisions¹ at Castleneau in Tatsfield, together with an accompanying High Court Judgement. Taking into account the findings within these decisions and judgement and given that the existing garage is domestic in scale, is part of the same planning unit, ancillary to a residential use and not widely dispersed around the appeal site, I consider that it is appropriate to include the dimensions of the existing garage in the quantum of development.
8. Having regard to the appellant's table of measurements, the increase in volume between the existing and proposed dwellings would be in the region of 98 cubic metres. This corresponds to a 12% increase overall. However, the matter does not end there and a consideration of other aspects of the proposed development is necessary.
9. The existing dwelling appears as a low-level single storey dwelling with a relatively small amount of additional accommodation within the roofspace. However, the proposal would introduce a dwelling with accommodation space arranged over four levels. Whilst reference has been made to the basement being underground and not capable of being visible, the material test is whether the new building *is* materially larger than the one it replaces, not whether it looks to be above ground level. I consider that the basement is an integral part of the proposal and should therefore be assessed in the quantum of development.
10. The proposal would have an increased eaves and ridge height, the latter being approximately 2.9 metres higher than that of the existing dwelling. In addition, given the prolonged width of the roof structure together with the inclusion of gable and hipped roof elements and a number of dormer windows and rooflights, the proposal would result in a significant increase in bulk and mass within the upper floors over that of the existing dwelling.
11. The spread of built form would be reduced given that the footprint of the proposed dwelling would be some 30% less than the existing dwelling. In addition, the width of the south and west elevations would be reduced by approximately 2% and 58%, respectively, again taking the appellant's

¹ APP/M3645/A/14/2220087 & APP/M3645/A/14/2226829

measurements which have not been disputed by the Council. However, by reason of the proposal's additional height, mass and bulk of the upper floors taken together with the increase in volume, the proposal would result in a materially larger structure than the buildings it would replace and as such I do not consider that it would be offset to a sufficient degree by any reduction in footprint and elevation width.

12. Consequently, I conclude that the exception set out in paragraph 145(d) of the Framework has not been met and 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.
13. Furthermore, the proposal would fail to accord with CS Policy CP3 insofar as this policy requires development to accord with Green Belt national policy.

Openness

14. The Government attaches great importance to Green Belts, noting that 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. The Framework establishes that substantial weight should be given to any harm to the Green Belt.
15. The proposal would be largely screened from public view due to existing dense and mature vegetation along the majority of its boundaries together with the presence of woodland to two sides. As such, the proposal would be largely discernible from the highway and wider countryside, albeit some limited views would be available from the upper levels of a number of neighbouring dwellings. However, openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.
16. For the reasons given above, the proposal would be materially larger than the buildings it replaces, taking into account its increase in volume together with additional height, mass and bulk. Accordingly, I find that the erosion of three-dimensional space would itself result in a significant effect on openness such that it causes harm to the Green Belt and conflicts with the purposes for including land within it.

Other Considerations

17. I have had regard to the proposal being respectful of the Kent vernacular and being of a design that causes no adverse impact to the appeal site's location within an Area of Outstanding Natural Beauty. However, the absence of harm is a neutral factor weighing neither for nor against the proposal.
18. The appellant has drawn my attention to a previous permission in 2015 for a two storey dwelling² at the appeal site. Notwithstanding that the 2015 permission has now lapsed due to the effluxion of time, the appellant asserts that the previously approved dwelling included similar ridge and eaves height and consequently would not be materially different to the appeal proposal. However, there is little information before me, nor any plans, relating to the

² Application reference TM/15/00137/FL

particular circumstances of that development. As such, a comprehensive comparison of the circumstances of that development to the proposal is not possible. I have therefore considered the appeal before me on its individual planning merits.

Conclusion

19. I conclude that the proposal would be inappropriate development in the Green Belt. Paragraph 144 of the Framework states that substantial weight is to be given to any harm to the Green Belt. In addition, there would be a significantly harmful effect on openness. The proposal would be contrary to CS Policy CP3 and the development plan, as a whole. I find that the other considerations in this case do not clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
20. For the above reasons, having regard to all other matters raised, I conclude that the appeal should be dismissed.

E Brownless

INSPECTOR