



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: 7th August 2019

Appeal Ref: APP/G2245/W/19/3220934

Dreamscape, Oak Farm Lane, Fairseat, TN15 7JU

- 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 John Collier against the decision of Sevenoaks District Council.
 - The application Ref: 18/02041/FUL dated 28 June 2018, was refused by notice dated 28 August 2018.
 - The development proposed is residential re-development of the site to provide two detached dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The name of the applicant is not given on the application form and I have therefore used the name cited on the Council's reason for refusal which accords with the name given on the appeal form.

Main Issues

3. The appeal site is within the Metropolitan Green Belt and accordingly the main issues are:
 - Whether the proposed development 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 proposed development.

Reasons

Whether the proposed development would be inappropriate development in the Green Belt

4. Paragraph 145 of 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.

5. One such exemption at paragraph 145(g) provides for the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. The remaining provisions of paragraph 145(g) specify that the development must not have a greater impact on the openness of the Greenbelt than the existing development or not cause substantial harm to the openness of the Green Belt, where the development would contribute to meeting an identified affordable housing need. However, it is not the appellant's case that the proposed development is for affordable housing.
6. The proposed development would result in the demolition of the existing detached bungalow and single storey detached annex together with a number of outbuildings. These would be replaced by two dwelling/houses each with accommodation within the roof space and a detached single storey garage.
7. The appellant has provided a table of measurements providing a comparison between the existing and proposed development. Furthermore, I am advised that this approach accords with the Council's Supplementary Planning Document for Development in the Green Belt (2015). Taking these measurements, which the Council have not disputed, the volume and footprint of the proposed scheme would be in the region of 1623 cubic metres and 462 square metres, respectively when compared against the existing volume of approximately 1025 cubic metres and 313 square metres. To my mind, this would amount to a significant increase in size.
8. The dwellings would also include steeply pitched roof structures to accommodate first floor rooms and as such, the ridge heights of the proposed dwellings would increase to some 6.6 metres and 5.65 metres from approximately 3.9 metres of the maximum height of the existing dwelling, again taking the appellant's measurements which have not been disputed by the Council. Notwithstanding that the proposed dwellings would be broadly positioned within the existing dwelling and annex footprint which would result in built form being concentrated towards the front of the appeal site, together with there being no significant impact upon mature trees, it would result in a significant increase in bulk and mass.
9. Overall, when comparing the height, volume and footprint of the proposed dwellings to the existing buildings, the proposed dwellings would be materially larger and as a consequence there would be a significantly greater impact on the openness of the Green Belt and the purpose of including land within it.
10. Furthermore, I have had regard to the appellant's comments that paragraph 145(d) of the Framework may be applicable. This exception concerns the replacement of a building providing the new building is in the same use and not materially larger than the one it replaces. The appellant states that provision 145(d) is capable of applying to the two proposed dwellings by reason of the existing annex building being capable of residential occupation as a separate unit of accommodation. Setting this matter aside, even if I were to consider that the appeal site consisted of two dwellings, the second limb of the test requires the replacement not to be materially larger. However, by reason of my findings above, I conclude that the proposed development would be materially larger than the extent of the physical built development as presently exists on the appeal site.
11. Consequently, I conclude that the exceptions set out in paragraphs 145(d) and(g) of the Framework have not been met and the proposed development

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.

Openness

12. For the reasons given above, I find that the proposed development would have a significant effect on openness such that it causes harm to the Green Belt and conflicts with the purposes for including land within it.
13. 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.
14. Whilst the proposed scheme would locate built development towards the front of the plot, thus enabling the rear part to return to being open and without built form following the removal of buildings to the rear, this would not overcome the harm I have identified above. The Framework establishes that substantial weight should be given to any harm to the Green Belt.

Other Considerations

15. Reference has been made to an extant certificate of lawful proposed use/development¹ (LDC) at the appeal site for, among other things, a number of extensions to the existing dwelling and additional outbuildings. This LDC represents a valid fallback position in that it could be constructed should this appeal be dismissed. The appellant contends that there are significant differences between the proposed development and the fallback scheme, in terms of the proposed development being of lesser volume and footprint than what could be developed in accordance with the LDC. Given that there would be a comparative reduction in volume, footprint and the spread of built form, the fall-back scheme would be more harmful than that of the appeal scheme.
16. I am mindful that some time has now elapsed since the LDC was granted and that at the time of my site visit the appeal site was in a state of disrepair. Whilst the appellant contends that the fallback scheme would be implemented and has provided a valuation appraisal in support of this position, there is limited detailed information before me concerning the viability of the fallback scheme. As such, on the evidence before me I do not consider that the fallback scheme would be implemented and accordingly, I attach modest weight to the fallback position.
17. The appellant has drawn my attention to the proposed development making use of sympathetic materials and it being in keeping with the street scene and the surrounding area. In addition, I have had regard to there being no identified harm to the living conditions of neighbouring occupiers, highway safety, protected trees, ecology, the landscape value of the appeal site within an Area of Outstanding Natural Beauty and adjacent to a public right of way. However, the absence of harm is a neutral factor that weighs neither for nor against the proposed development.
18. The appellant has cited Policy GB4 of the Sevenoaks District Council Allocations and Development Management Plan (2015). However, whilst the proposed

¹ Application Ref SE/16/00946/LDCPR

development broadly accords with a number of criteria within this policy, it also requires that replacement dwellings within the Green Belt do not materially harm openness through, amongst other things, excessive scale and bulk. Given my findings above, overall it would fail to accord with this policy.

Conclusion

19. The proposed development would be inappropriate development in the Green Belt and the Framework establishes that substantial weight must be attributed to the harm arising from that. The proposed development would also lead to a loss of openness.
20. Compared to the extant fallback scheme, the proposed development would have less impact on the openness of the Green Belt. Whilst I attach modest weight to the fallback position, this is insufficient to outweigh the substantial weight that I must attach to the harm to the Green Belt. Accordingly, 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. There are no material considerations of sufficient weight or importance that determine that the decision should be taken otherwise than in accordance with the Framework and therefore planning permission should be refused.
21. For the above reasons, having regard to all other matters raised, I conclude that the appeal should be dismissed.

E Brownless

INSPECTOR