



Appeal Decision

Site visit made on 5 August 2019 by Mariam Noorgat BSc (Hons)

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2019

Appeal Ref: APP/G2245/W/19/3229463

Wilburton, Leydenhatch Lane, Swanley BR8 7PS

- 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 Hazell of Ox Group UK, against the decision of Sevenoaks District Council.
 - The application Ref 18/03171/FUL, dated 11 October 2018 was refused by notice dated 28 January 2019.
 - The proposed development is the construction of a replacement dwelling and associated parking, access and landscaping works.
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Decision

1. The appeal is dismissed

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and development plan policies;
 - If the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons for the Recommendation

Whether it would be Inappropriate Development

4. Paragraph 145 of the NPPF states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. Two exceptions are the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (Part d) and the complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development (Part

- g). The appeal site is noted to be previously developed land and the proposed house would replace an existing house. Therefore the development could be considered under either criteria.
5. If it were considered as a replacement building, Policy GB4 of the Sevenoaks District Council Allocations and Development Management Plan, Adopted February 2015, (Local Plan) is relevant. It sets out four parameters: part (a) clarifies what would constitute a building for replacement, part (b) seeks to ensure openness is not affected and part (d) outlines that the replacement must not be 50% larger than the original dwelling. Part (c) states the proposal should be within the original curtilage of the dwelling and although this does not reflect the NPPF, all other elements of Policy GB4 are consistent with the NPPF.
 6. The appeal site currently contains a modestly proportioned two storey property with associated single storey elements and is set within a large plot. The proposal would be set further into the site and would have a greater width, depth and height compared to the present house. The appellant gives various figures for the size of the new and existing dwelling with their design and access statement (on page 38) citing an increase from 125m² to 205m² and their statement of case (on page 35) giving figures of 110m² increasing to 177m², which may reflect a difference between internal floorspace and external footprint. The Council's figures also suggest an increase from 125m² to 205m². Using either set of figures, both would equate to increases of over 60%. Consequently, I consider the proposed building would be materially larger than the one it replaces.
 7. Therefore, the proposal, when considered as a replacement dwelling, would be inappropriate development as it does not accord with Part (d) of paragraph 145 of the NPPF or Policy GB4 of the Local Plan. The appellant states Policy GB4 part (d) of the Local Plan does not reflect the General Permitted Development Order, 2015, (GPDO), and is out of date. Irrespective of date, these policies are broadly consistent with the NPPF with regards to Green Belt matters. Policy GB4 therefore holds substantial weight.
 8. Alternatively, were the proposal to be considered as the redevelopment of previously developed land, an assessment of its impact on openness leads to a conclusion as to its inappropriateness.
 9. As the proposed new dwelling would be materially larger than the current extent of built development on the site, it would have an adverse impact on the openness of the Green Belt in spatial terms.
 10. In visual terms, the proposed dwelling would be set further back into the plot. However, due to the increase in its scale and bulk it would still be prominently visible when passing along Leydenhatch Lane and vantage points on the South side of this road. Also, views across the site are currently possible from the western side of the appeal site from the beginning of the access road. The new position of the proposal, which would sit closer to the western boundary fence, would interrupt these views. Fencing to the northern boundary obscures views to the north from within the site, however open views above the fence, can be seen when standing close to the Russet Way junction to the south west of the appeal site. The siting and height of the proposal will impact this open view. The set-back therefore would not be successful in increasing or providing a perception openness.

11. At the south side of Leydenhatch Lane, opposite the metal gates to the eastern side of the site, views are possible to the inclined land beyond the northern fence. As it is possible to see through these gates, their removal would not have a significant impact on openness.
12. Although the tree boundary treatment running along the eastern boundary of the appeal site already limits views to the north-east, this cannot be relied upon in the long term due to its non-permanent nature.
13. The hardstanding at the appeal site is not visually appealing and the removal of this and the addition of landscaping would allow for a net gain in biodiversity and enhance the setting of the site. This would improve the appearance of the site but not necessarily increase the openness.
14. Overall the development would have a greater effect on openness than the existing development. When considered against Part (g) of paragraph 145 of the NPPF, therefore, the proposal would represent inappropriate development.

Other Considerations

15. The NPPF states 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
16. By way of a fallback position, the appellant draws attention to the existence of permitted development (PD) rights which benefit the existing property. For significant weight to be afforded to a fallback position, it would need to be more harmful than the scheme for which permission is sought and there needs to be a reasonable prospect of it being carried out if planning permission were refused.
17. Although the calculations provided by the appellant show the fallback position will have greater footprint than that proposed, and potentially a less cohesive appearance, the roof height of the extensions under PD rights would be limited and unable to exceed the height of the original dwelling, and in the most part could not be higher than single storey. Given that the proposal is significantly higher than the original dwelling adding considerable bulk at this level, and as openness should be determined holistically, the proposal will affect the openness more than the fallback position would. Notwithstanding this, while the appellant attests that they would make full use of the permitted development rights at the site if I were to dismiss the appeal, I have no detailed evidence to support such a claim. Previously refused applications for a replacement house is not compelling evidence. Furthermore, I have no plans or Lawful Development Certificates illustrating that the developments would be a viable proposition, although I accept this is not necessary. Nonetheless, I have doubt as to whether there is a reasonable prospect of the fallback position being carried out. When taken together, these factors limit the weight I can attach to the fallback position.
18. The Council and the appellant both agree on various aspects of the proposal such as respecting the character and appearance of the area, good parking provision, enhancement of biodiversity and no impact to neighbouring occupier's amenity. I have no reason to disagree. However, the lack of harm in these respects carries neutral weight.

19. The appellant suggests the character and appearance of an area and openness should be determined together. I am of the view however that whilst a development could be visually acceptable in terms of its effect on the character and appearance of the area, as in this case, it can still be unacceptable in respect of its effect on the openness of the Green Belt. I therefore do not find that these elements should be combined.
20. The appellant states the present property does not have distinctive architectural merit and replacing this, and the provision of landscaping along the frontage would provide more benefit to the street scene and visual amenity of neighbouring occupiers. However, the current property accords with the character and appearance of the area and replacing this with a scheme that similarly respects the character and appearance of the area, would not materially improve the street scene. This therefore holds neutral weight.
21. The appellant states the site and the surrounding uses including the church meeting hall, its car park, does not possess the character of openness or reflect the perception of the Green Belt, and instead appears as the built-up edge of Swanley. However, policy does not distinguish between types of Green Belt. All parts of the Green Belt are afforded the same level of protection regardless of how they are landscaped or what developments are present, and the degree of openness of the surroundings does not diminish the value of openness on the appeal site. The appellant further states the proposed landscaping would visually better define the Green Belt boundary. However, Green Belt boundaries are well already established.
22. Reference has been made to the development of the church meeting hall and its car park (Ref SE/15/00776/FUL) to the north of the appeal site. I do not have full details of the circumstances that led to this decision, however, it can be seen from the details provided within the appellant's statement that the scheme differed vastly in terms of siting and use. The very special circumstances attached to that site therefore would not represent a direct parallel to the appeal proposal. In any case, I have determined the appeal on its own merits.
23. Also, it is unclear how the proposal would differ to the present dwelling in terms of providing support/managing the church or how that support would be ensured, and this therefore carries minimal weight.
24. Any contribution towards Swanley's regeneration and economy due to the residential use of the site would be comparable to the contribution currently provided. This therefore carries negligible weight.

Planning Balance and Conclusion

25. The NPPF advises that the Government attaches great importance to Green Belts and that substantial weight should be given to any harm to the Green Belt. It is considered the development would cause harm to the Green Belt by way of inappropriateness and to its openness. Balanced against that are the other considerations identified above. For the reasons given, I conclude that they do not clearly outweigh the harm to the Green Belt and therefore there are no very special circumstances to justify the proposal.
26. The proposed development represents inappropriate development which results in harm to the Green Belt, contrary to the NPPF, Policy GB4 of the Local Plan

and the Development in the Green Belt Supplementary Planning Document, adopted February 2015, (SPD) which all seek to prevent inappropriate development in the Green Belt. The proposal would not impact on the extent of the Green Belt, as required by Policy LO8 of the Sevenoaks District Council Local Development Framework Core Strategy, adopted 22 February 2011, and as such I do not find any conflict with this policy.

27. Nonetheless, for the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Mariam Noorgat

APPEAL PLANNING OFFICER

Inspector's Decision

28. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR