



Appeal Decision

Site visit made on 22 October 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2019

Appeal Ref: APP/T0355/W/19/3234314

Garden Cottage, Dry Arch Road, Sunningdale, Ascot SL5 0DB

- 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 Candido Rodrigues against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/00351, dated 6 February 2019, was refused by notice dated 27 June 2019.
 - The development proposed is the construction of a dwelling replacing the demolished dwelling and outbuilding.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. On my visit I saw a building under construction on the appeal site. Works are on-going, however I saw most of the external walls had been completed. As far as it had been constructed, the building appeared to be in accordance with the appeal plans.
4. The Council's decision notice makes reference to the Borough Local Plan 2013–2033 Submission Version (LPSV). However, this does not currently form part of the development plan and its policies do not carry the same weight as those within the adopted Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating Alterations Adopted June 2003) (LP).

Main Issues

5. The appeal site is located within the Green Belt and so the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy; and
 - the effect on the openness of the Green Belt; and

- 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

6. The appeal site benefits from planning permission for the construction of a replacement dwelling with new access¹ (hereafter referred to as 'the approved development'). As this is a recent permission, there is a greater than a theoretical possibility the approved development would be constructed regardless as to my decision. This fallback position is a consideration in my assessment of the appeal.

Whether Inappropriate Development in the Green Belt

7. Policy GB1 of the LP states that in the Green Belt, approval will only be granted for certain types of development, unless very special circumstances exist. LP policy GB3 states there will be a general presumption against allowing residential development in the Green Belt except for certain types of proposal. The exceptions include the rebuilding or replacement of an existing habitable dwelling of permanent construction. In such circumstances the replacement dwelling should not be materially larger or result in a material alteration to the scale of development on the site. Policy SP5 of the LPSV includes similar provisions, although refers to replacement buildings rather than solely replacement dwellings.
8. These policies are broadly consistent with paragraph 145 of the Framework which defines the replacement of a building as being not inappropriate development, provided the new building is in the same use and not materially larger than the one it replaces.
9. At the time of the planning application for the approved development, a house and outbuilding existed on the appeal site. These buildings have since been demolished. The Council's approach has been to assess whether the size of the proposed dwelling would be materially larger than the demolished buildings.
10. Both main parties indicate the demolished house and outbuilding had floor areas of approximately 118 square metres and 68 square metres respectively, resulting in a total building floor area of about 186 square metres. Also, both main parties agree the proposed dwelling would have a floor area of about 295 square metres, excluding the basement.
11. Neither the Framework or the development plan provide a definition of 'materially larger'. The justification to LP policy GB3² states that floorspace will be a guiding factor, but matters such as scale and bulk of the proposal can also be used in any assessment.
12. The figures provided by both parties indicate the proposed dwelling would have a floor area (excluding the basement) approximately 60% greater than the demolished buildings. Furthermore, as it would be 2 storeys high and with a

¹ Council of Royal Borough of Windsor and Maidenhead planning permission reference number 17/02140 dated 12 October 2017.

² Paragraph 2.1.25 of the LP

flat roof, the proposed building would be bulkier than the demolished dwelling which included upper floor accommodation within its pitched roof space.

13. On the information before me in respect of floor areas, bulk and general size, I consider the appeal scheme would result in a building that is materially larger than those that previously existed on the site. Consequently, the proposal represents inappropriate development in the Green Belt.

Openness

14. The Framework states that the essential characteristics of Green Belts are their openness and their permanence³. From the information before me it appears the appeal development would introduce a building onto the site that has a greater volume than the demolished buildings, thereby spatially reducing its openness.
15. Due to its position adjacent to the road, the previous outbuilding was prominent in the street scene and therefore had a significant effect on the visual openness of the site. However, this outbuilding has been demolished and so any benefit previously attributed to its removal no longer applies. Moreover, despite being set back, the full width of the upper floor of the building under construction can be clearly seen from the road over the boundary wall. As such, the proposed dwelling would visually affect the openness of the site, thereby causing harm to the Green Belt.

Other Considerations

16. The approved development fallback position is referred to by the appellant. Whilst its footprint would be no larger, additional room space at first floor level would result in the proposed dwelling having more volume than the approved development. Whilst this increase is small, the addition to the side would be seen from the road so that the proposed dwelling would result in a spatial and visual loss of openness compared to the approved development. Furthermore, no evidence has been submitted that demonstrates the appeal scheme has any advantage over the approved development. As such, I attach limited weight to the fallback position in support of allowing the appeal.
17. The proposed dwelling would represent high quality, contemporary design that would assimilate in the locality without harming its character. The proposal would cause no harm to the living conditions of the occupiers of neighbouring properties and sufficient parking space is provided. However, these matters are policy requirements rather than benefits to the scheme and so carry neutral weight in my consideration of the appeal.
18. The proposal includes a new access which would allow greater visibility than the existing. However, the same new access is already permitted as part of the approved development and so its provision is not dependent upon the appeal scheme. As such I attach limited weight to this factor in my assessment.
19. Reference has been made to the permission for the dwellings on the opposite side of the road. I do not have the full details of the circumstances that led to this permission, although I understand it was granted some years ago. As such I give no positive regard to this issue in my consideration of the appeal.

³ Paragraph 133 of the Framework.

Whether very special circumstances exist

20. I have identified that the appeal scheme represents inappropriate development in the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances⁴. Such circumstances only exist where the harm by reason of any inappropriateness and any other harm is clearly outweighed by other considerations. In carrying out this balancing exercise, substantial weight is to be given to any harm caused to the Green Belt.
21. As well as harm by reason of inappropriateness, the development causes an additional small loss of spatial and visual openness of the Green Belt when compared to the approved development.
22. In support of the scheme, I attach limited weight to the fallback position and the proposed access improvements. I conclude that these and all other considerations do not clearly outweigh the harm the development would cause to the Green Belt that I have identified. Consequently, very special circumstances necessary to justify the development do not exist. As such, the development would conflict with policies GB1, GB2 and GB3 of the LP and policies SP1 and SP5 of the LPSV which, amongst other things, seek to protect the Green Belt from inappropriate development. Furthermore, it would fail to accord with the Framework.

Conclusion

23. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR

⁴ Paragraph 143 of the Framework.