
Appeal Decisions

Site visit made on 26 November 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal A Ref: APP/G2245/W/19/3229444 Hillside, Valley Road, Fawkham DA3 8EG

- 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 J Love against the decision of Sevenoaks District Council.
 - The application Ref 18/03789/FUL, dated 7 December 2018, was refused by notice dated 12 March 2019.
 - The development proposed is the demolition of two existing dwellings and erection of two replacement dwellings with integral garages, parking and landscaping.
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Appeal B Ref: APP/G2245/W/19/3229442 Hillside, Valley Road, Fawkham DA3 8EG

- 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 J Love against the decision of Sevenoaks District Council.
 - The application Ref 18/03791/FUL, dated 7 December 2018, was refused by notice dated 12 March 2019.
 - The development proposed is demolition of existing building and erection of replacement building for residential use.
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Decisions

Appeal A - APP/G2245/W/19/3229444

1. The appeal is dismissed

Appeal B - APP/G2245/W/19/3229442

2. The appeal is dismissed.

Background

3. The appeals relate to different parts of a larger site. Appeal A relates to two dwellings, while Appeal B relates to a stable building to the rear of the dwellings. The appeals were submitted as separate applications and are not dependent on each other for implementation. The entire site is in the Green Belt.

Appeal A

Main Issues

4. The main issues are as follows:

- Whether the proposal would be inappropriate development in 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 inappropriate development

5. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. One such exception is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
6. Policy GB4 of the Sevenoaks Allocations and Development Management Plan 2015 (ADMP) provides detailed guidance on the assessment of replacement dwellings. In particular the design and volume should not materially harm the openness of the Green Belt, it should adhere to the original dwelling curtilage, and the total replacement floorspace should not result in an increase of more than 50% of the original dwelling. For the purposes of the policy it is stated that "original" means the dwelling as it existed on 1 July 1948 or as first built if it did not exist on that date. Having regard to paragraph 213 of the Framework, the degree of inconsistency between the Development Plan policy and paragraph 145 of the Framework I give some limited weight to ADMP Policy GB4.
7. 'Hillside' is the larger dwelling on the site, and is a substantial detached house in spacious grounds. The Coach House is set close to the side of it and has been used as an annex in the past but is now a separate dwelling. It is significantly smaller, and set close to but slightly back from the larger house. There are several outbuildings within the site and a tennis court to the rear of the dwellings. The plots are not clearly separated from each other by boundary treatments, so that The Coach House has the appearance of sitting within the grounds of Hillside. The proposal would replace both of these dwellings with two large detached dwellings.
8. Whether the dwelling is materially larger than the one it replaces is a matter of planning judgement. The Council has calculated in respect of Plot 2 (Hillside) that the replacement dwelling would be 41% larger than the original in terms of floorspace, and concludes that this falls within the scope of Policy GB4 of the ADMP. The replacement dwelling would have similar proportions to the existing house, and I agree with the Council's view that it would not be materially larger.
9. However, the replacement dwelling in Plot 1 would be significantly larger than The Coach House, which is a modest sized dwelling. The Council calculates that it would result in an increase in floor space in the order of 175%. In arithmetical terms this is a substantial increase. It would replace a modest

building, with one that is wider, taller and deeper, with a larger footprint. Even if the removal of the garage and other sheds adjacent to The Coach House are taken into account, the replacement dwelling would still be significantly larger, and this would be material. The proposal, insofar as it relates to Plot 1, does not therefore benefit from the exception in paragraph 145 (d) of the Framework.

10. The appellant has put forward the argument that the proposal should be considered an exception under paragraph 145 (g) of the Framework. This relates to the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. The site is in a rural area where there is only scattered development and is separated from the nearest settlements by open fields. I am therefore satisfied that the site is not in a built up area. Previously developed land is defined in Annex 2 of the Framework, and includes land which is or was occupied by a permanent structure, including the curtilage of the developed land. It clarifies that it should not be assumed that the whole of the curtilage should be developed.
11. The main garden of The Coach House appears to be restricted to the areas between it and Hillside, and a small area to the other side of it, behind the garage. However, there are no physical boundaries separating it from the wider area around the dwellings. The Council is concerned that the strip of open grassland between The Coach House and West Rays is not part of any residential curtilage, and should not therefore be developed. It was not included in the residential curtilage for The Coach House, when permission was granted for its use as a separate dwelling¹.
12. The strip of land is not being used for agriculture or grazing of animals, and there was some garden equipment on it at the time of my site visit. The aerial photographs provided by the appellant show that it has been mown but they do not indicate the use of the land. The appellant's evidence indicates that it has been used continuously as part of the residential garden of Hillside for a variety of residential purposes, including golf, football and cycling. This would indicate that it has been used as garden land, but that does not necessarily mean that it is part of the residential curtilage of either of the dwellings. Moreover, the Framework makes it clear that it should not be assumed that the whole of the curtilage should be developed.
13. Regardless of whether this area of land is part of the residential curtilage, it has an open and undeveloped appearance. In spatial terms the substantial increase in built form would reduce the openness of the site when compared with the existing development. In visual terms, the proposal would replace the existing large dwelling and small dwelling with two substantial dwellings. Although it would create greater space between the dwellings than currently exists, it would reduce openness by encroaching into the open strip of land to the north. I am mindful of the appeal referred to by the appellant at Westerham Heights², but in this case the proposal would result in a greater spread of development across the site, through encroaching onto an open part of the site which provides a visual break between The Coach House and West Rays. In view of the particular characteristics of the site, I do not therefore find

¹ Ref 06/02239

² Appeal Ref APP/G2245/W/18/3201192

that this harm to openness is offset by the increase in openness between the two dwellings.

14. I therefore conclude that the proposal is inappropriate development in the Green Belt, as it does not benefit from the exceptions listed in paragraph 145 of the Framework.

Other considerations

14. The appellant has argued that Appeal A should be considered as one site with Appeal B, as previously developed land under paragraph 145 (g), so that the overall reduction in both footprint and volume of buildings on the site could be considered collectively as compared to the existing situation. However, these proposals have been submitted as separate applications and are not dependent on each other for implementation. If considered as one proposal there would be no certainty that both schemes would be implemented. It is open to the appellant to submit them as a single application. The appellant has referred to two appeal decisions where weight has been given to a reduction in the spread of development overall. However, these both relate to single proposals and are not directly comparable.
15. The site is close to the settlements of Longfield and Hartley, with access to local facilities and services, including railway links. The proposal would bring economic and social benefits by providing investment and construction, and modern homes for existing residents. However, there would be no net increase in the number of dwellings and I have seen no evidence that the existing dwellings are substandard.

Green Belt Balance and Conclusion

15. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there would be an adverse impact on openness. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm, is clearly outweighed by other considerations. I give some moderate weight to the contribution that the proposal would make to the economy through the construction work, and limited weight to the provision of modern houses. The substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. The very special circumstances necessary to justify the development do not, therefore, exist.
16. The proposal is therefore in conflict with the Framework and ADMP Policy GB4 in relation to the Green Belt, and accordingly Appeal A should be dismissed.

Appeal B

Main Issues

17. The site is in the Green Belt. The main issues are as follows:
- Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the character and appearance of the area;

- 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 inappropriate development

18. The proposal relates to a large single storey building to the rear of the two dwellings, located on rising land and set into the slope. It is used as stables and associated storage for the horses kept on the adjacent land, and I saw that it also contains a one bedroom dwelling, although this does not benefit from planning permission. The proposal is to demolish the building and replace it with a two storey dwelling. Both parties have considered whether the proposal meets the exceptions set out in paragraph 145 (g) of the Framework, which I have already set out in relation to Appeal A. The Council has guidance for the redevelopment of previously developed brownfield sites in a Supplementary Planning Document Development in the Green Belt 2015 (Green Belt SPD). This sets out additional requirements in relation to the height, site area and openness, but I attach limited weight to them as they are not wholly consistent with the Framework.
19. The parties agree that the site should be considered previously developed land, as it relates to equestrian stables. The replacement of the large stable building with a dwelling would result in a decrease in built form on the site, in terms of floorspace, footprint and volume. However, the dwelling would be wider and bulkier than the stable building and would be oriented across the slope so that this width would be apparent in views from the countryside to the south. It would be taller than the existing building and would therefore appear more imposing, even though it would be set at a lower ground level through excavating the site. The bulk of the building, along with associated boundary treatments, garden, parking and turning would have a greater on openness than the existing development. It would thereby reduce the openness that currently exists between the stable building and the dwelling at Hillside. This impact is limited due to the spatial improvement in openness resulting from the reduction in built form.
20. As a result, despite the reduction in built form, due to the height and orientation of the dwelling and associated domestic use, it would have a greater impact on the openness of the Green Belt than the existing development on the site. Accordingly, the proposal is inappropriate development in the Green Belt, as it does not fall within any of the exceptions listed in paragraph 145 of the Framework.

Character and appearance

21. The area is within open countryside on the North Downs. Although it is close to nearby settlements, it has an open rural character. The site is towards the bottom of a narrow chalk valley, and the dwellings at Hillside form part of loose-knit ribbon development in the base of the valley generally fronting onto Valley Road, with land sloping up steeply either side. The stable building is prominent in views from the surrounding area, including from across the valley, being set on higher land to the rear of the dwellings. Despite its use, its appearance is akin to a functional agricultural type building. Thus, it is a large and prominent building that does not make a positive contribution to the

character and appearance of the area. However, it has a functional and unremarkable appearance that is not out of place in a rural area.

22. By contrast, the dwelling would appear as a clearly domestic building, with a double height glazed front gable prominently sited on the front elevation, steeper roof pitch and a taller elevation. It would present a flank elevation to views through the driveway from Valley Road, but its wider front elevation would nonetheless be apparent in views from the surrounding area. As a result, it would be more harmful and out of keeping with the rural area than the existing building. While I have no doubt that it would be built to a high standard with appropriate detailing, it would nonetheless introduce a domestic building in a prominent position, that would appear as visual intrusion into this part of the site. Landscape planting and screening would help to assimilate the building into the residential appearance of the wider site but would not overcome the harmful effect through the introduction of the dwelling on the site, due to its height and prominent position on the slope.
23. I therefore conclude that the proposal would be moderately harmful to the character and appearance of the site and surrounding area. Accordingly, it would be in conflict with Policy SP1 of the Sevenoaks Core Strategy 2011 and Policy EN1 of the ADMP, insofar as they seek to ensure that new development is designed to a high quality that responds to the distinctive local character of the area.

Other considerations

24. The proposal would result in a new dwelling which would bring a social benefit as well as providing economic benefits during construction. I give this moderate weight due to the small scale of the development. It is close to settlements with railway links and local facilities and services.

Green Belt Balance and Conclusion

25. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there would be a limited adverse impact on openness and moderate harm to the character and appearance of the area. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm, is clearly outweighed by other considerations. I give some moderate weight to the contribution that the proposal would make to the economy through the construction work, and limited weight to the provision of an additional house in an area that is accessible to services. The substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. The very special circumstances necessary to justify the development do not, therefore, exist.
26. The proposal is therefore in conflict with the Framework and the Green Belt SPD, and accordingly I conclude that Appeal B should be dismissed.

N Thomas

INSPECTOR