
Appeal Decision

Site visit made on 1 September 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2020

Appeal Ref: APP/P1940/D/20/3252923

Newton Cottage, Poles Hill, Sarratt WD3 4NR

- 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 Paul Johnson against the decision of Three Rivers District Council.
 - The application Ref 20/0461/RSP, dated 2 March 2020, was refused by notice dated 30 April 2020.
 - The development is described as part retrospective: extension of existing driveway including increase in land levels and insertion of retaining walls
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted as part retrospective, with the concrete retaining walls currently in situ and are subject to an on-going enforcement case¹. However, I have nothing before me to suggest whether this has been determined or not. I note that the description of the development on the appellant's appeal form is different to the description on the planning application form. As the appeal form description more accurately describes the development, I have used this description in the banner heading. Therefore, I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
 - The effect on the openness of the Green Belt and the purposes of including land within it;
 - The effect of the development on the character and appearance of the site and surrounding area; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this

¹ Reference 19/0208/COMP

amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (the Framework), at Paragraph 146 sets out forms of development which are not inappropriate in the Green Belt, including engineering operations, provided they preserve its openness and do not conflict with the purposes of including land within it.
5. The Framework has to be read together with the relevant development plan policies, which in this case, includes Policy CP11 of the Core Strategy (CS) (2011). Policy CP11 sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purposes of including land within it.
6. Consequently, the development would not be inappropriate development unless it would have a greater impact on Green Belt openness and purposes. My conclusions on the next issue will, therefore, determine whether or not the development is inappropriate.

Openness and Green Belt Purposes

7. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. The assessment of openness requires a consideration of both spatial and visual aspects. There is no definition of 'openness' in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development rather than being primarily about visual effects.
8. The development would introduce additional hardstanding in combination with the existing retaining wall into the open side of the site. The development, including the retaining wall, would alter the land levels requiring the importation of material, and together with the provision of hardstanding, would result in the encroachment of urbanising development into the open frontage of the site. The appellant has suggested that the level of the land has only been raised slightly, and that this has not been through the importation of material, but through the rubble created from the permitted buildings works undertaken on the dwelling. However, there is no evidence before me to support this claim.
9. The development includes the extension of the pre-existing driveway by a maximum of 6m and an overall increase of 71sqm which is a 53% increase. Whilst cars parked on the driveway would be set back from the front boundary, they would be at an elevated position and would be clearly visible from the surrounding area. Furthermore, there would be no limit on the number or size of the vehicles stored in this area.
10. From a spatial aspect, the footprint of the development, its bulk and the accompanying domestic paraphernalia, such as the additional space for cars and spaced for general domestic storage, would inevitably lead to a loss of openness. From a visual aspect, even with additional planting, the wall and hardstanding and any accompanying domestic paraphernalia would be visible from public views.

11. In this particular case, the appeal site is in a prominent position on the corner of the road, and the introduction of the retaining wall has added bulk and massing to the front of the property, which has eroded the open aspect of the site and has added an additional urbanising feature. The wall and additional hardstanding would be a material addition to the amount of built development on the site, which would have a harmful effect upon the openness of the Green Belt in this location. Furthermore, as the development would extend the driveway for the property it is likely that vehicles at the property could be parked in this area for extended periods of time, which would have the effect of reducing the openness of the site.
12. The appellant has stated that the development does not conflict with any of the reasons for including land in the Green Belt, as set out in Paragraph 134 of the Framework. However, whilst the development is in the residential curtilage of the property, it is still designated as Green Belt and considering my findings on the visual and spatial aspect of the site, the development would impact on Green Belt purposes.
13. I conclude that the appeal development would fail to preserve the openness of the Green Belt. Therefore, the development would not meet the requirements of the exception, and would thus, be inappropriate development. By definition, this is harmful to the Green Belt, and I have given substantial weight to this harm.

Character and appearance

14. The appeal site is located on the south western side of Poles Hill on a bend in the road, which forms a junction with Plough Lane and Dunny Lane. The property is a 2 storey detached dwelling, and there are also single storey projections to both sides of the property. The site sits in a prominent position due to the change in land levels from the site to the road and the sites elevated position. To the front of the site there is a large oak tree and a hedgerow which borders the property. The site is located between 2 large single storey bungalows.
15. Despite the nearby residential properties, the area has a verdant and rural character. This is due to the setting of the surrounding fields and the triangular green to the front of the property. The development would introduce further hardstanding by extending the existing driveway and would include the retention of the retaining walls. This would erode the verdant nature of the site, through bringing further built form into the area, as well as the parking of vehicles and other domesticated paraphernalia which could be stored on the raised hardstanding. In addition, the presence of motor vehicles on the extended driveway would exacerbate the presence of the extended driveway and retaining wall, which would be made more prominent due to the elevated height in comparison to the surroundings.
16. The appellant has proposed landscaping measures to try and mitigate the effect of the development. This includes closing the gaps in the hedges. However, given the verdant character of the area, the proposed hardstanding and retaining wall would still appear as a stark and urbanising feature. I acknowledge that the hedgerow once filled in, would reduce some views towards the site. However, this would not obscure all the views. In any case, these measures would not obviate the harm, and it would still exist, even with a condition seeking landscaping and the maintenance of the landscaping.

17. There is dispute between the parties as to the impact on the health of an oak tree. This is an important feature, which contributes positively to the character of an area. However, were I minded to allow the appeal, I am satisfied that suitable protection measures could be required through condition. As such, there would be no harm in this respect.
18. I note that other properties on this side of Poles Hill have parking areas within their curtilage, however, I do not know the planning status of these driveway areas or what may have led to their approval. Furthermore, due to the nature of the site on the bend in the road and the raised level of elevation from its nearby surroundings, the site is particularly prominent and readily visible. In any case, each development must be determined on its own planning merits and within its own context, and the presence of parking areas at other properties does not necessarily make this development acceptable or mean that there is no harm.
19. Accordingly, the development would cause unacceptable harm to the character and appearance of the area. Therefore, it would be contrary to Policies CP1 and CP12 of the CS and Policy DM1 and Appendix 2 of the DMP LDD. These policies require development to have regard to the local context and conserve or enhance the character, amenities and quality of the area.

Other Considerations

20. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. The appellant has stated that the development would allow a larger turning area on the site, which would allow the drivers of vehicles to enter and exit in a forward gear. The appellant has provided a Highway Statement, which suggests that the development would enhance road safety and ensure that the parking and turning provision on the site are policy compliant. I note there have been several accidents in the past that have been in close proximity to the site. The appellant also suggests that there have been several incidents that have not been counted in any formal statistics.
22. However, from the evidence before me, there is not an excessive number of accidents, given that the first case is from 2006. Furthermore, there is nothing before me to suggest that the causes of the accidents were due to the current access and parking arrangements of the appeal property. Nevertheless, I acknowledge that it would be a benefit to be able to enter and exit in a forward facing gear, even if the evidence suggests that it is not absolutely necessary for road safety. Therefore, I afford this benefit some weight.
23. The appellant has suggested that he could build walls or fences and have further hardstanding under permitted development rights, and that these could potentially have a significantly greater urbanising impact. However, there is no lawful development certificate before me and there is limited information within the evidence regarding the detail of such permitted development or details of what would be carried out, therefore, it is not possible to determine if this would be directly comparable to this proposal. Furthermore, the wall appears to be serving an engineering operation rather than a decorative function, and the development goes beyond the mere laying of a hard surface.

24. The hardstanding would appear to require planning permission, because it would be part of a larger engineering operation. It is dependent upon the ground level being raised and supported by the retaining wall, in order to provide the level area on which hardstanding could be laid as a surfacing material suitable for the parking of vehicles. The appellant has not shown that a hard surface could be formed without a separate engineering operation. Consequently, this would not be a relevant fallback position in this instance.

Other Matters

25. I note that the way the Council has dealt with the application has been raised by the appellant, as well as there being no objections from interested parties. However, the lack of objection is a neutral consideration and the Council's handling of the proposal is not a determinative factor for the appeal.

Green Belt Balance and Conclusion

26. The development would constitute inappropriate development in the Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. Even when taken together, the other considerations in this case do not clearly outweigh the harm to the Green Belt.
27. Consequently, the very special circumstances necessary to justify the development do not exist, and thus, it would conflict with Policies CP1, CP11 CP12 of the CS, Policies DM1 and Appendix 2 of the DMP. The Council in its reason for refusal have referred to DMP Policy DM2. However, the aspects in this policy are not relevant for this appeal, as they do not cover engineering operations.
28. For the reasons given above, I conclude that the appeal is dismissed.

D Peppitt

INSPECTOR