



Appeal Decision

Site visit made on 1 October 2020

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2020

Appeal Ref: APP/P1940/W/20/3252772

Harriett's End, Quickmoor Lane, Chipperfield, WD4 9BP

- 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 & Mrs M Minashi against the decision of Three Rivers District Council.
 - The application Ref 19/2090/FUL, dated 28 October 2019, was refused by notice dated 14 January 2020.
 - The development proposed is replacement detached dwelling with basement.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2019 (the Framework) and relevant development plan policies. In this respect the issue is whether the replacement building would be materially larger than the existing building and;
 - ii) The effect on the openness of the Green Belt and;
 - ii) If the proposal would be inappropriate development, whether the harm by reason 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

Whether the proposal is inappropriate development in the Green Belt

3. The appeal site is in a rural location accessed off a private track, in a large plot, standing within the Metropolitan Green Belt. The Framework is clear that construction of new buildings in the Green Belt should be regarded as inappropriate. Exceptions to this do, however, include the replacement of a building provide the new building is in the same use and not materially larger than the one it replaces as set out in paragraph 145 d).
4. The appeal site benefits from permitted development fallbacks¹ as well as consents² for a replacement detached dwelling. Unimplemented planning

¹ 15/2039/CLPD and 15/0794/CLPD

² 19/0209/FUL and 18/1044/FUL

permissions (which can include permitted development rights) cannot count as part of the baseline. They are, however, relevant at the stage of considering whether very special circumstances exist.

5. The baseline for assessment is the building as it stands i.e. whether the proposal is materially larger than that it replaces. The existing building (dwelling) on site is a single storey residential dwelling which is stated to have a Gross Internal Area (GIA) in the region of 346 sq./m. The appeal proposal seeks consent for a replacement dwelling, with a GIA of 971 sq./m (an increase of 181% above the original dwelling) over two storeys with a basement.
6. Whichever way the proposal is assessed be that by volume, massing, floor area or similar I find that when comparing the original dwelling to the one that would result if the proposal were allowed, the outcome would be materially larger. I note, within email correspondence between the appellant's agent and the Council, it is agreed that the replacement dwelling is materially larger than the one which it replaces.
7. I find that the proposal would, therefore, be contrary to Development Management Policies LDD (2013) Policy DM2 which requires replacement dwellings not to materially exceed the size of the original dwelling and Core Strategy 2011 Policy CP11 which states a general presumption against inappropriate development in the Green Belt.
8. The proposal would also be contrary to paragraph 145 d) which requires replacement buildings to not be materially larger than the one it replaces. The proposal would be inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The effect on the openness of the Green Belt

9. The above ground element of the proposal is already able to be constructed as a result of the most recent planning consent in place. The proposal would replace a single storey residential dwelling, with a GIA of 346 sq./m, with an above ground element with a GIA of 554 sq./m. This was assessed, by the Council, to not be a materially larger replacement within 19/0209/FUL and thus would have been not inappropriate development within the exceptions of paragraph 145 of the Framework. There would have been no requirement to go on to assess impact on openness. I have no evidence before me to conclude differently on the above ground element of the proposal.
10. The basement, being subterranean, will not adversely impact on openness. It will have a volume; however, this will not diminish space to affect the visual openness of the Green Belt. The proposal would not therefore conflict with the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open.

Other Considerations

11. For a fallback position to be given significant weight it must be a realistic proposition. It is agreed that the extant permitted development "fallbacks" would allow extension of the existing dwelling. Despite this, I note that these previous submissions for extensions under permitted development to the Council date from some years ago and as yet have not been fully implemented.

This, combined with three applications for a replacement dwelling since (one refused), does not indicate a strong likelihood that these extensions would be built in full.

12. The consents outlined above give a clear option for the appellant to build a replacement dwelling and it is the replacement route which has been pursued as evidenced by the site's planning history. For this reason, I do not consider that there is a greater than theoretical possibility that the fallback scheme of extending the existing dwelling would be implemented and therefore attribute very little weight to these as a fallback position.
13. As previously outlined the appeal site benefits from planning permission for a replacement dwelling on the site³. This has then been followed by another planning permission⁴ for a proposed replacement dwelling. Both have less volume and floor area than that proposed within this appeal.
14. Of most relevance is 19/0209/FUL which is stated to have granted consent for a replacement detached dwelling. As part of that consent the permitted development extensions were afforded significant weight and had a greater harm to openness compared with the scheme proposed at the time. The maximum floor area and volume achievable under the existing planning permissions is still substantially less than that proposed within this appeal.
15. The replacement two storey dwelling (above ground level) is noted to be the same as that within this appeal, however, the material difference is the inclusion of the basement. The basement would add a further 440sq./m of floor area to the already approved replacement dwelling. The proposed basement would project outside the footprint of the ground floor resulting in substantial engineering works, regardless of whether they ultimately end up underground. I find that the fallback schemes stated are materially different; only supporting the above ground element of the proposal which is able to be implemented via the existing consent. Therefore, the existing planning permissions, as fallbacks, do not have any significant weight.
16. Although I have found that the scheme as whole would not diminish the openness of the Green Belt, this is a neutral consideration which does not weigh either for or against the proposal.
17. There has been no objection to the proposal from neighbours or the Parish Council. The Council reason for refusal also did not raise issues other than the proposal being materially larger with no very special circumstances to justify the development. However, a lack of objection on certain matters is a neutral consideration.
18. I have considered the imposition of conditions such as those relating to future operational works, however, conditions would not overcome the proposal being inappropriate development in the Green Belt.

Very Special Circumstances

19. For the reasons given, the total weight of the other considerations does not clearly outweigh the substantial weight that must be given to the harm to the

³ 18/1044/FUL

⁴ 19/0209/FUL

Green Belt. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

20. Therefore, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR