

Appeal Decision

Site visit made on 4 November 2020

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2020.

Appeal Ref: APP/R3650/W/20/3248609

Dibdene, The Green, Shamley Green, Guildford, GU5 0UA

- 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 R Pick against the decision of Waverley Borough Council.
 - The application Ref WA/2019/1410, dated 25 July 2019, was refused by notice dated 24 January 2020.
 - The development proposed is the erection of a dwelling following demolition of the existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling following demolition of the existing dwelling at Dibdene, The Green, Shamley Green, Guildford, GU5 0UA in accordance with the terms of the application, Ref WA/2019/1410, dated 25 July 2019, subject to the conditions on the attached schedule.

Main Issues

2. I consider the main issues are:-
 - Whether the proposal constitutes an inappropriate form of development within the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy.
 - The effect of the development on the openness of the Green Belt.
 - If the development is inappropriate to the Green Belt for the purposes of the Framework and development plan policy, whether the harm by reason of that inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to exist to justify the development.

Reasons

3. The appeal site is an area of about 0.26Ha in the rural settlement of Shamley Green and accommodates one detached two storey dwelling and a range of outbuildings. It shares a driveway with a larger property to the north and is in a neighbourhood of generally good quality and aesthetically pleasing homes close to a central green. The locality is a Conservation Area and Green Belt washes over the settlement. The existing property is relatively unremarkable; it has an extant permission for a substantial extension (Ref WA/2019/0027).
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4. The appeal proposal is as described above with the planned dwelling being a sizeable 4 bedroomed two storey home with generally traditional elevations.

Whether the proposal is inappropriate development

5. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The replacement of an existing building is not, however, inappropriate provided that it is in the same use and not materially larger than the one it replaces. The Framework does not define 'materially larger'.
6. The national policy advice has to be read together with the relevant development plan policy. In this case that includes Policy RE2 of the Waverley Borough Local Plan (Part 1) 2018 which references protection against inappropriate development. In addition there is retained Policy RD1 of the Waverley Borough Local Plan 2002 (LP) which is more concerned with detailed control criteria generally related to the protection of character within Green Belt settlements. Neither of the policies or their supporting text defines 'materially larger'. No specified percentage increases or measurement methodology are set out as potentially being deemed as acceptable for a sites within settlements; this is a subjective exercise.
7. I should mention at this point that the Council cites LP retained Policy RD2A and its supporting text. However I see no relevance to this given the policy and associated wording categorically refers to replacement dwellings in the countryside; the appeal site is within a settlement. Similarly referencing by both principal parties of the Residential Extensions SPD is not relevant because a) the scheme is not an extension and b) within that document where inter-change between extension and new build work is explored (Section 5.2) the context is one of dwellings in the countryside.
8. Returning to the case in hand: Taking gross external square metres the Council considers that the new dwelling would be an increase of some 40% over the existing dwelling whilst the Appellants are close to this figure at about 39%. This is almost a consensus and I have no reason to argue with it. In my opinion figures of this order would amount to a significant and considerable increase in scale, in other words development materially larger than the existing building.
9. On the first issue, I therefore conclude that this proposal would represent inappropriate development for the purposes of the Framework and the development plan policies to which I refer. I attach substantial weight to the harm caused by this scheme representing inappropriate development.

Effect on Openness

10. The Framework makes it clear that an essential characteristic of Green Belts is their openness. Open can mean the absence of development irrespective of the degree of visibility of the land in question from public vantage points; development which would harm openness could be acceptable visually. In other words, openness of the Green Belt has a spatial aspect as well as a visual aspect and the absence of visual intrusion, or the presence of screening, does not in itself mean that there is no impact on the openness of the Green Belt as a result of development. In this case the proposal would

involve the addition of considerable built form. The change over the existing situation would be appreciable.

11. I conclude that there would be conflict with a key objective of the Framework and the development plan and I attach substantial weight to this impact upon openness of the Green Belt.

Other considerations

12. The Appellants put forward two principal arguments.
13. Firstly that the extant extension scheme for the existing house is a realistic fall-back, would enlarge the property by some 42% in gross external square metres, and should therefore give a green light to a redevelopment scheme which would end with a building of less than this total. The Council seeks to argue that the development has not been actually constructed so it is not a true replacement situation and extensions are dealt with under a different local policy regime. It does however broadly agree with the percentage increase figure, putting this at 43%. For my part I see this as a true fall-back and notwithstanding why it was allowed or the fact that it is not in situ the reality remains that this scale of development could readily result via planning permission ref WA/2019/0027. Consequently the effect on the openness of the Green Belt would directly stem from an enlarged dwelling of greater scale than the appeal scheme. I consider in these specific circumstances, and given that the Framework underlines that an essential characteristic of Green Belts is their openness, that this should be to the fore in one's mind when determining the case of the new build property.
14. The second, partly linked, point is that the rebuild project would be a marked visual improvement on the existing property with its extant extension. The Council fairly considers that the appeal scheme is of an attractive design but was not persuaded this should counterbalance its objections. I would agree on the quality of design. I am in no doubt that the appeal scheme would be aesthetically more pleasing than the fall-back which stems from an unremarkable original building and with a similar style of extension. Striving to achieve good design is a central objective of the Framework.
15. I give the matters put forward by the Appellants very substantial weight. I can see that there is a persuasive case for the appeal scheme before me.

Conservation Area

16. As I mention above, the site lies within a Conservation Area (CA). There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a CA. This matter is covered within Section 11 of the Planning Officer's Report. For the reasons set out within its text I would agree with that the appeal scheme would not run contrary to S72(1) or the parallel relevant development plan policies referred to in the Officer's Report.

Balance and conclusions

17. Taking everything above into account the benefits and merits of the pertinent other considerations, with the very substantial weight they carry, do clearly

outweigh the harm arising from the development's inappropriateness, and the other harm, albeit they weigh substantially in my opinion.

18. Very special circumstances that would justify the development do exist and I shall therefore allow the appeal subject to planning conditions.

Planning conditions

19. There is some debate between the principal parties over the mechanics of a Unilateral Undertaking (UU) which would remove 'permitted development' rights to extend or enlarge the new dwelling. However the use of an undertaking via Section 106 for this purpose is not necessary in my view in this instance. A planning condition would suffice and I return to this below. The existence or otherwise of a UU in this case is a neutral factor in my decision making process.
20. In addition to the standard commencement condition the Council suggests a condition requiring development to be in accordance with listed, approved, plans; I would agree, to provide certainty. External materials should be agreed in the interests of visual amenity. Specific new windows as suggested need to be controlled along with a relevant requirement for obscure glazing to prevent overlooking. Given the need to protect the CA I would agree that detailed plans for key elements of the development should be called for. I would concur with the Council that in the unusual circumstances of this site it would be relevant to remove a range of 'permitted development' (pd) in the interests of protection of openness of the Green Belt. As noted above the Appellants by their actions on the Unilateral Undertaking are clearly content to forgo future pd extensions or enlargements and this condition will apply accordingly. I would agree that it is pertinent in the interests of visual amenity to require tree protection and given the risk to trees from any works including initial activity it is a condition which, exceptionally, should be of a 'pre commencement' nature.
21. Bearing in mind the scale of the proposal as only a single dwelling in an established curtilage with its landscape framework, the site's existing development and form, its location and surrounds, and the existence of a range of other applicable legislation I am not convinced that it would be necessary to apply conditions on water consumption; broadband speed; tree felling methodology; European Protected Species licensing; external lighting and bats; reptiles and/or amphibians and bird nesting re clearance works; or badgers. Consequently I shall not apply conditions on these matters notwithstanding the suggestions of the Council.
22. On occasions I include some variation from the wording of the conditions set out by the Council in order to aid precision and accord with national guidance and legislation.

D Cramond

INSPECTOR

SCHEDULE OF CONDITIONS (8)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: GA – 01; GA 01; GA 02; GA 04 Rev 1; GA 05; GA 05 (Roof Plan); GA06 Rev 1; 02; 03; 05; Location Plan at 1:1250 and Block Plan at 1:200.
3. Samples or specifications of the external facing materials to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before any works on site above damp proof course level are commenced. The development shall then be built in accordance with these approved samples.
4. Before relevant works begins on the specified items, drawings to a scale not smaller than 1:5 fully describing the following details must be approved in writing by the local planning authority. The works must not be executed other than in complete accordance with these approved details. a) New windows, these drawings must show: materials cross section of frame method of opening b) Roof details, including sections through: verges and bargeboards
5. Prior to the commencement of any works on site, demolition, or other development activities, protection measures shall be erected and installed in accordance with the submitted Tree Survey and Tree Protection Plan (TPP). The Local Authority Tree and Landscape Officer shall be informed of the proposed commencement date a minimum of two weeks prior to that date to allow inspection of protection measures before commencement. The agreed protection will be kept in position throughout the development period until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows or other openings other than those expressly authorised by this permission shall be constructed in the first floor of the north-north eastern elevation.
7. The first-floor window in the north-north eastern elevation shall be glazed with obscure glazing to the extent that intervisibility is excluded and shall be retained in this form.
8. Notwithstanding the provisions of Schedule 2, Part 1 and Classes A, B, C, D and E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any orders revoking or re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwelling hereby permitted or the provision of any other building within the curtilage other than as expressly authorised by this permission shall be carried out without planning permission being first obtained from the Local Planning Authority.