
Appeal Decision

Site visit made on 12 January 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2021

Appeal Ref: APP/T0355/W/20/3257386

63 The Avenue, Wraysbury, Staines TW19 5EY

- 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 S Marston against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 20/00977, dated 24 April 2020, was refused by notice dated 23 June 2020.
 - The development proposed is erection of new dwelling following demolition of existing dwelling and outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For precision and clarity, I have taken the description of development from the Council's decision notice.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal upon the openness of the Green Belt; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

4. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. The Framework identifies that the construction of new buildings should be regarded as inappropriate development in the Green Belt, other than in respect

- of a limited range of specified exceptions. Paragraph 145 (d) of the Framework identifies one of the exceptions to be 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 GB1 of the saved Royal Borough of Windsor and Maidenhead Local Plan (incorporating alterations) June 2003 (LP) identifies that permission for new buildings in the Green Belt is limited to specific exceptions, unless there are very special circumstances. Policy GB2 of the LP states that permission will not be granted where development would have a greater impact on the openness of the Green Belt or the purposes of including land in it, than the existing development on the site. Policy GB3 sets out a general presumption against residential development in the Green Belt but identifies a number of specified exceptions.
 7. I note that the adoption of the LP predates the publication of the Framework. Despite this, the saved policies in the LP are broadly in accordance with the policies contained within Section 13 of the Framework. It is my duty to determine the scheme in accordance with the development plan unless material considerations indicate otherwise. However, where there is inconsistency between the LP and the exceptions identified in Paragraph 145 of the Framework, the Framework attracts more weight.
 8. Neither the Framework nor the development plan expands on what is meant by a materially larger replacement building. This is a matter of judgement, comparing the proposal with the size of the building as it currently appears on site.
 9. In this case, it is clear from the evidence before me that the proposed replacement dwelling would be both larger in terms of its floorspace and in its overall volume. There is, however, disagreement between the parties with regards to the exact amount of the increase. Notwithstanding this disagreement, due to its additional height and design, the replacement dwelling would have a larger expanse of roof and, when viewed within its context, the dwelling would be of a greater scale, bulk, mass and volume than the property to be replaced. As a consequence, it is my view, that the proposal would introduce a replacement dwelling that would be materially larger than the building to be replaced.
 10. Therefore, when assessed against relevant sections of the Framework and the adopted policies in the LP, the proposed dwelling would represent inappropriate development within the Green Belt.

Openness

11. The essential characteristics of Green Belts are their openness and their permanence. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
12. Evidence was submitted by the appellant to show that the proposed increase in floorspace and size would not have a greater impact upon the openness of the Green Belt than the current dwelling. Openness, however, is not just about visual impacts, but it also has a spatial element. In this instance, I do not agree with the appellant and, due to the increase in both the height and

floorspace of the proposed dwelling, I am of the view that it would have a greater impact on the openness than the existing development. Although, due to the presence of the existing building, along with the removal of the outbuilding from the site, the overall harm to the openness of the Green Belt would be limited.

13. Therefore, in both spatial and visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing situation. This would be contrary to the Framework where it states an essential characteristic of Green Belts are their openness.
14. My attention has been drawn by the appellant to Paragraph 145(g) of the Framework, which identifies one of the exceptions to the development of new building in the Green Belt to be 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.
15. It however follows, that given my conclusions in relation to the impact of the development upon the openness of the Green Belt, whilst this harm would be limited, this would be contrary to the Framework. Consequently, the proposed development would not fall within the scope of development described in Paragraph 145(g) of the Framework.

Other Considerations

16. Paragraph 144 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm.
17. It has been put to me that the proposal would represent a visual improvement to the area, with the replacement dwelling being of a better architectural quality than the existing building, along with improvements to the land around the replacement property. A further positive aspect would be the setting of the new building back from the boundary with The Avenue. The appellant has also submitted that, due to the flood requirements, there is an inevitable need to increase the height of any replacement building, to provide the necessary floor level to meet the requirements of the Environment Agency.
18. Given the sensitivity of the site in relation to the River, I agree with these submissions and consider that the overall design would improve the character and appearance of the area. These weigh in favour of the proposal. However, I would anticipate that these measures to be required with most development proposals, therefore they attract only limited weight.
19. The appellant has referred to the potential for the existing building to be extended through the use of permitted development rights, which, in their submissions could potentially create a larger dwelling than the proposed replacement dwelling, without the associated architectural benefits, although no such details are before me. However, to my mind such permitted development rights are largely universal, with the vast majority of properties afforded the right to extend without the need for planning permission, such that the presence of permitted development rights carries only limited weight.

Green Belt balance

20. The proposal would constitute inappropriate development in the Green Belt. As such, the Framework requires that the harm by reason of inappropriateness be accorded substantial weight. In addition, limited harm would result from the reduction in the openness of the Green Belt.
21. In the context of the above, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. Consequently, other considerations weighing in favour of the development must clearly outweigh any harm.
22. I consider that the proposal does deliver some positive benefit in the form of improvements to the character and appearance of the area.
23. Furthermore, I note that the Council raise no other issues in relation to ecology, highways and impact on neighbouring occupiers, amongst other things. However, as these are requirements of policy and legislation, the absence of harm in respect of these matters are neutral factors that weigh neither for nor against the development.
24. Therefore, considering the substantial weight and national importance to protecting the Green Belt, all of the considerations that weigh in favour of the proposal, including the support from surrounding residents, do not clearly outweigh the identified harm to the Green Belt, so as to amount to the very special circumstances necessary to justify the development.

Other Matters

25. My attention has also been drawn to an appeal decision from Gravesham Borough Council. Whilst there may be similarities in terms of the issues before the Inspector on that case, I am not familiar with all the circumstances and, in any event, I am required to determine this appeal on its individual merits.

Conclusion

26. For the above reasons, and having taken all matters into consideration, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR