

Appeal Decision

Site visit made on 26 January 2021

by S M Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2021

Appeal Ref: APP/M3645/W/20/3255981

Chartlands, Caxton Lane, Limpsfield RH8 0TD

- 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 M Forster and Mrs M Forster-Van Hijfte against the decision of Tandridge District Council.
 - The application Ref TA/2020/543, dated 12 March 2020, was refused by notice dated 17 June 2020.
 - The development proposed is demolition of existing ancillary residential outbuildings to be replaced with a three bedroom detached dwelling of part single, part two storey design built into hillside with associated landscaping, access and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - a) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - b) the character and appearance of the area;
 - c) biodiversity and protected species.

Reasons

Inappropriate development

3. The appeal site is an irregular shaped plot of land immediately to the north of Chartlands, a large detached house reached via a track from the end of Caxton Lane. It lies within the Green Belt, beyond any defined settlement boundary. The site has a collection of buildings comprising garages, sheds, stores and greenhouses that were ancillary to the main house but are now in various states of dereliction. The remainder of the site appears to be an overgrown kitchen garden on a series of small terraces set into the sloping ground which falls away in a south-westerly direction. The tallest and most substantial building on the site is a stone-built garage; the other structures predominantly comprise a mix of brick, timber and glass. The proposal seeks to replace all these buildings with a dwelling which would have 2 parallel linked elements and would be partially built into the steeply sloping ground.

4. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies, adopted 2014 (Local Plan) states that inappropriate development is, by definition, harmful to the Green Belt and will normally be refused. Proposals involving inappropriate development will only be permitted where very special circumstances exist. This reflects paragraph 143 of the Framework. Policy DP13 of the Local Plan sets out the Council's approach to the assessment of buildings in the Green Belt. This is broadly consistent with paragraph 145 of the Framework which states that the construction of new buildings should be regarded as inappropriate, subject to a list of specific exceptions.
5. The only exception which is relevant to this case is G which permits partial redevelopment of previously developed sites in the Green Belt, whether redundant or in continuing use, where the proposal would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the **existing development** (my emphasis). This reflects almost precisely exception g) of paragraph 145 of the Framework. Openness is one of the essential characteristics of the Green Belt and is primarily an absence of development. A proposal may therefore affect openness both spatially and visually, regardless of its design details.
6. There have been two schemes¹ for a residential development of this site which were refused as inappropriate development, one of which was subsequently dismissed on appeal². The previous Inspector's concerns about the extent of the plot and the potential for introducing domestic paraphernalia into the garden has been addressed by restricting the size of the plot. Therefore, although the boundaries of the site are not currently marked by any physical features on the ground, the risk of a loss of openness arising from encroachment of residential activities into the countryside has been removed.
7. The footprint of the appeal proposal would be 189m², which is almost identical to that of the existing buildings. The proposal would result in an increase of 17.4% in the volume of development on the site from 685.5m³ to 805m³. However, it is proposed to regrade the land so that a significant portion of the development would be built into the hillside. The volume above ground would be reduced to 572m³. Although this would require some significant earthworks, it would ultimately mean that the development was physically contained, thereby ensuring that it would not have a greater impact on openness than the existing development.
8. I therefore conclude that the proposal would not be inappropriate development and, in this respect, would not conflict with national and local policy to safeguard the Green Belt from encroachment. It would comply with the exception set out in G of Policy DP13 and the Framework's equivalent exception in paragraph 145 g).

Character and appearance

9. The existing collection of buildings on the site differ from each other in scale and appearance. Although they form a group there are gaps between them. There is a mixture of roof heights and shapes. The stone garage is a taller, more substantial and more prominent building than the others and includes an extension with a shallow mono-pitched roof. The garage itself has a steeply

¹ Ref: TA/2018/1215 and TA/2017/1809

² APP/M3645/W/18/3194382

pitched roof that is parallel to the slope of the land. The greenhouse is a smaller structure so, although its ridge is also parallel with the site's slope, it is considerably smaller in terms of bulk. Between the garage and the greenhouse is a large 'L'-shaped shed which has a pitched roof at right angles to these adjacent buildings and a flat roof element to one side. Its gable end faces down the slope of the site. To the rear is a low-profile, timber shed with a shallow pitched roof. Together these buildings read as a collection of ancillary outbuildings to Chartlands. The variety of heights and roof forms, the buildings' different orientations, the varied use of materials and the spaces between them breaks up their collective mass.

10. The proposal comprises two buildings, each with a simple rectangular footprint and wide shallow pitched roofs. They would be parallel to the slope of the site and offset from one another. The full width and depth of the upper building's roof would be visible above the similar expanse of the roof of the lower building. These two large roof slopes would dominate the appearance of the south-western elevation.
11. The building to the rear would be two storeys but would be built into the sloping ground. It would be taller than the shed it would replace but its ridge height would be comparable with that of the existing garage. The single storey building on the lower part of the slope would obscure most of the front elevation of the rear building. Nevertheless, due to the proposed offset between the two buildings a portion of the rear two storeys would be seen beyond the northwest elevation where it would project beyond the single storey element. The front elevation of the lower building would be almost entirely glass. The two elements would be connected by an entrance way with a flat roof.
12. This contemporary and minimalistic approach to the design would provide a dwelling of a simple form, make use of the change in levels on the site and is an attempt to reflect the overall bulk and mass of the existing buildings. However, in doing so, the character of the original buildings on the site, derived from the eclectic mix of height, orientation and varied roof forms, would be lost. The interest that stems from those different buildings and the spaces between them would be significantly eroded. This would result in the site being dominated by two, rather ordinary looking rectangular buildings, one of which would contain large scale, unbroken sections of glazing. I am therefore not persuaded that the development as a whole would adequately reflect the unique character and appearance of the site and its existing buildings. Consequently, it would fail to integrate successfully into this unusual and special site which is in a prominent position overlooking the surrounding landscape.
13. In coming to this view, I have had regard to two other permissions for a residential development on the site. The first, granted on 30 April 2019³ was predicated on retention and extension of the garage. As this is the most prominent building on the site, that scheme is preferable because it would preserve more of the form of the existing development. A second scheme was approved on 20 October 2020⁴. This appears to be an amendment of the appeal proposal but with significant changes to the lower building, separating it into two distinct elements with different roof slopes, a gable feature and a

³ TA/2019/336

⁴ Ref: TA/2020/1341

chimney. This scheme has introduced additional variety into the design, considerably adding to its visual interest and being more reflective of the existing buildings. These differences also contribute to reducing the extent of glazing on the front elevation. I consider that either of these schemes would be less harmful to the site and its surroundings than the appeal proposal.

14. I therefore conclude that the proposal would harm the character and appearance of the area, contrary to Policy CSP 18 of the Tandridge District Core Strategy 2008 (Core Strategy) and DP7 of the Local Plan. These policies require proposals to respect and contribute to the distinctive character of the area having regard to matters such as scale, form, bulk, height and spacing.

Biodiversity and protected species

15. The appellant submitted a Preliminary Ecological Appraisal (PEA) with the application and a Bat Emergence/Re-entry Survey (Bat Survey) with the appeal which had previously been accepted by the Council when considering the scheme approved in October 2020. I have taken the additional information into account in my consideration of this matter.
16. All species of bat and some reptiles are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). The Wildlife and Countryside Act 1981 specifically protects other reptiles and protected species and provides general protection for all wild species of birds, animals and plants. Circular 06/2005 states that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. It goes on to state that '*it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established **before** (my emphasis) planning permission is granted*' (paragraph 99).
17. The recent Bat Survey concluded that there are bats roosting in 3 of the buildings on the site and that a mitigation licence will be required. In granting permission for TA/2020/1341 the Council imposed a pre-commencement condition requiring full details of the European Protected Species (EPS) licence from Natural England to be submitted to and approved in writing by the local planning authority and undertaking those works as approved. In these circumstances, if the development had been acceptable in all other respects, I am satisfied that the exceptional circumstances to justify such a condition have been met and would have imposed a similar condition.
18. The PEA made a series of other recommendations relating to the need to protect owls, great crested newts, reptiles and other birds. It also included a series of measures to reduce impacts on wildlife during construction and improve biodiversity. Many of these appeared to be sensible and achievable. However, given the high level of protection to specific protected species, it seems to me that some further survey work would be required to be certain about the presence or otherwise of protected species on the site. I am therefore not persuaded that these matters could be addressed by the imposition of a condition and I must exercise a precautionary approach.
19. I therefore conclude that, notwithstanding the comprehensive survey work carried out in relation to the presence of bats, the proposal could be harmful to other protected species. It would therefore fail to comply with the requirements of the Habitats Regulations and the Wildlife and Countryside Act. It would also

conflict with Policy CSP17 of the Core Strategy which seeks to protect biodiversity and Policy DP19 of the Local Plan states that permission will only be permitted where it has been demonstrated that protected and Priority species will not be harmed or appropriate mitigation measures can be put in place.

Conclusions

20. I have found that the proposal would not be inappropriate development in the Green Belt. However, I have concluded that the scheme would harm the character and appearance of the area. Furthermore, on the basis of the evidence provided I was not satisfied that the protection of protected and Priority species could be addressed through the imposition of conditions.
21. For these reasons I conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the two extant permissions for a residential development on the site, that outweigh that conflict.
22. For this reason, the appeal is dismissed.

Sheila Holden

INSPECTOR