



Appeal Decision

Site Visit made on 19 January 2021 by Emma Worby BSc (Hons) MSc

Decision by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 March 2021

Appeal Ref: APP/H2265/W/20/3260579

Ivanhay, Sandy Lane, Wrotham Heath, Sevenoaks TN15 7SB

- 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 David McCulloch against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/20/00819/FL, dated 14 April 2020, was refused by notice dated 12 June 2020.
 - The development proposed is the demolition of existing house/garage; construction of new house/garage and associated hard/soft landscaping.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in the appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and the development plan; and
 - Whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations and if so whether this would amount to the very special circumstances required to justify the proposal.

Reasons for the Recommendation

Whether it would be inappropriate development

4. The appeal site is occupied by a single storey dwelling with accommodation in the roof, a garage to the side and a small outbuilding to the rear. It is located on the edge of the settlement of Addington and within the Green Belt. The proposal would replace the existing dwelling with a larger two storey dwelling with a basement level and a detached garage to the front.
5. Paragraph 145 of the Framework indicates that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. One of the exceptions listed at Paragraph 145 (d) is the replacement of a

building provided that the new building is in the same use and not materially larger than the one it replaces. Policy CP3 of the Tonbridge and Malling Borough Council Core Strategy (2007) (CS) requires development to comply with national Green Belt policy. Both the Council and the appellant have indicated that as the proposed building would be significantly larger than the existing dwelling, it would not fall under the exemption in paragraph 145 (d) and I see no reason to disagree with that assessment.

6. Paragraph 145 (g) allows for limited infilling or the partial or complete redevelopment of previously developed land in the Green Belt, provided that it would not have a greater impact on the openness of the Green Belt than the existing development. It is agreed by both the Council and the appellant that the site can be considered previously developed land and I concur with that assessment. However, the impact of the proposal on the openness of the Green Belt is contested.
7. Due to its subterranean level, the appeal dwelling's basement would not reduce the openness of the Green Belt. However, the ground and first floors would be materially larger than the existing dwelling, confirmed by the appellant as an increase in the gross external floor area of 191m² above ground level. The proposed dwelling would also be greater in height. Notwithstanding that some of the existing outbuildings on the site would be removed as a result of the proposal, due to its floorspace and height and the forward position of the garage, the appeal proposal would result in a significant increase in the mass and bulk of development on the site compared with the existing dwelling. There would be a substantial reduction in the openness of the Green Belt in spatial terms.
8. Turning to visual aspects, the dwelling's ridge height would be lower than the adjoining property 'The Haven' and it would be well integrated within its surroundings. However, the new dwelling would be visible from Sandy Lane and the garage would be located in a forward position within the existing front garden which currently makes a significant contribution to the visual openness of the site. As such, the proposal would reduce the visual openness of the Green Belt.
9. Overall, the proposal would reduce the openness of the Green Belt in spatial and visual terms and as it would have a greater impact on openness than the existing development, it would not fall under the exemption in paragraph 145 (g). As such, the proposal constitutes inappropriate development which would, by definition, be harmful to the Green Belt and in my view, this would amount to moderate harm to the openness of the Green Belt.

Other Considerations

10. The appellant and the Council agree that the proposed dwelling would not result in a harmful impact upon the character and appearance of the area, and I agree with this finding. However, this lack of harm would attract neutral weight in the overall Green Belt balance.
11. There is an extant planning permission¹ for a replacement dwelling on the site. This was granted planning permission as an exception under the terms of paragraph 145 (g) of the Framework and would therefore not be inappropriate

¹ TM/20/01244/FL (the approved scheme)

development in the Green Belt. The appellant submits that the appeal scheme represents only a modest increase in size compared with the permitted replacement which would be imperceptible in context and that the Council's approach to the appeal scheme has therefore been inconsistent.

12. However, the floorspace of the appeal dwelling would be 119m² larger above ground level compared with the permitted replacement, resulting in a noticeably larger dwelling which would reduce the openness of the Green Belt to a greater extent. Since the existing permission for the replacement dwelling would have less impact on openness, it carries no weight as a fallback position. I have come to that conclusion based on my assessment of the appeal proposal and the circumstances of the site.
13. The appellant has also referred me to a prior approval² and a proposed lawful development certificate for rear and side extensions, a garden room and a pool house³. It is argued that as the extensions and ancillary outbuildings would provide leisure facilities required by the appellant, there is a greater than theoretical possibility of these proposals being implemented and that the fallback position has been clearly established. This would result in a greater area of developed floorspace on the site above ground level compared with the appeal proposal.
14. However, the extensions and ancillary outbuildings under the prior approval and lawful development certificate are largely to the rear of the site and single storey in height. The two-storey form of the appeal proposal together with its bulk and height would create a much more imposing building which, along with the addition of a garage to the front of the dwelling, would reduce the openness of the Green Belt to a greater extent. For this reason, the fallback position of the prior approval and lawful development certificate carry limited weight in my overall consideration.
15. The construction of the permitted replacement dwelling together with the ancillary outbuildings permitted under the prior approval and lawful development certificate would result in a larger area of developed floorspace above ground floor level compared with the appeal dwelling. The appellant argues that the appeal proposal would result in a more compact development, limiting the spread of built development particularly across the northern part of the site and that future ancillary outbuildings could be controlled by means of a planning condition attached to any permission for the appeal scheme.
16. However, I have found above that the permitted replacement dwelling would result in less harm to the openness of the Green Belt and the ancillary outbuildings would be single storey and to the rear of the dwelling. On balance, I conclude that the appeal dwelling would have a greater impact on the openness of the Green Belt compared with the fallback position of the permitted replacement in addition to the ancillary outbuildings. As such, that fallback position also carries limited weight in my overall consideration.
17. It is noted that the proposal received no objections from the occupiers of neighbouring properties, the Parish Council, or the Council's Tree Officer. This is given neutral weight.

Green Belt Balance, Conclusion and Recommendation

² TM/20/00814/PDVLR

³ TM/20/01019/LDP

18. The proposal would amount to inappropriate development in the Green Belt, and in addition, moderate harm to the openness of the Green Belt would be caused as a result of the proposal. The Framework is clear that substantial weight should be given to any harm to the Green Belt. For the reasons outlined above, I find that the other considerations in this case taken together do not clearly outweigh the substantial harm arising from inappropriateness and the harm to openness. The very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal would be contrary to CS Policy CP3 which seeks to protect the Green Belt, along with the provisions of the Framework.
19. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Emma Worby

APPEALS PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Sarah Housden

INSPECTOR