



Appeal Decision

Site visit made on 10 March 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Appeal Ref: APP/T0355/W/20/3261721

Island Reach, River Gardens, Bray, Maidenhead SL6 2BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr A Remedios against Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 20/01339/FULL, is dated 8 June 2020.
 - The development proposed is demolition of the existing dwelling and the erection of a replacement dwelling with new access.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal was lodged a revised version of the National Planning Policy Framework, 2021 ('the Framework, 2021') has been released. The main parties have been consulted on this and I have taken this into account where relevant to my Decision.

Background and Main Issues

3. Although there is no formal decision from the Council, they have offered putative reasons for refusal. Based on these, the main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt in terms of the Framework, 2021 and development plan policy;
 - ii) The effect of the proposal on the openness of the Green Belt;
 - iii) The effect of the proposed development on the character and appearance of the area;
 - iv) The effect of the proposal on protected species (bats);
 - v) 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

Inappropriate development

4. The appeal site is located on the northern edge of River Gardens along the southern bank of the River Thames and is a broadly rectangular plot. Located centrally along the western section of the plot is the existing property, Island Reach which is a detached, single storey dwelling. The plot also incorporates a few outbuildings. The proposal is to demolish the dwelling and outbuildings and replace them with a new dwelling and detached garage.
5. The appeal property is located within the Green Belt, Policy GB1 of the Royal Borough of Windsor and Maidenhead Local Plan, Adopted 1999 (including Adopted Alterations 2003) ('LP') states that, within the Green Belt, approval will only be given for, amongst other things, residential development consistent with policies GB3-GB5 of the LP. Policy GB2 of the LP does not support new development which would have a greater impact on the openness of the Green Belt or the purposes of including land in the Green Belt, than the existing development on the site. Policy GB3 of the LP confirms that where a one-for-one replacement dwelling is proposed, the replacement dwelling should not be materially larger or result in a material alteration to the scale of development on the site. The Green Belt aims of these policies are broadly consistent with the Framework, 2021.
6. The Framework, 2021 states that new buildings in the Green Belt shall be regarded as inappropriate development, and by definition, harmful to the Green Belt. Exceptions to this are set out in Paragraph 149 of the Framework, 2021. One such exception, under Paragraph 149 (d) is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
7. In this case, the replacement buildings would be of the same use, passing the first test. With regard to the second 'size' test, the appellant has referred me to other approved replacement dwellings in the Green Belt, including one on the adjoining plot (Braybrook House). Based on these, the Council has allowed replacement dwellings with floor space increases ranging between about 53% to 163%. On this basis the appellant argues that the floor space increase of about 49.6% (or 63.9% when including the proposed garage) when compared to the existing building and outbuildings would not be materially larger.
8. Neither national guidance nor local policy gives specific direction on how to come to a view as to whether something is 'materially larger', beyond a comparison between what is proposed and what it is being replaced. As a result, an element of planning judgement is also involved in the decision-making process. Even when taking the appellant's more favourable calculations, I consider that the proposal would amount to a substantial increase in floor area, over the existing development. There would also be an appreciable increase in bulk and scale relative to the existing dwelling. This would result in buildings materially larger than those being replaced. Therefore, the proposal fails the size test and does not meet the exception under Paragraph 149 (d) of the Framework, 2021. I have noted that other examples of approved replacement dwellings in the area allowed greater enlargements than what they replaced. However, these were largely based on floor space comparisons. Therefore, based on my assessment of what is 'materially larger' I attach limited weight to these.

9. The proposed development would therefore constitute inappropriate development in the Green Belt, which is by definition harmful to the Green Belt.

Effect on openness

10. The Framework, 2021 advises that openness and permanence are the essential characteristics of the Green Belt. Notwithstanding that the appeal site is within a settlement, due to the replacement buildings being materially larger than those being replaced, in terms of overall scale, there would be a reduction in visual and spatial openness of the Green Belt. This is a further aspect of Green Belt harm.

Character and appearance

11. The appeal site is located within a predominantly residential area and Riverside Gardens comprises a number of individually designed, detached dwellings which are arranged around a central green space. These detached properties include two-storey dwellings, chalet-style properties, and bungalows which display considerable variation in scale, and design, including roof forms.
12. The replacement dwelling is of an individual style and takes design cues from the dwelling currently being constructed on the adjoining site (Braybrook House) and would incorporate a similar shallow roof form.
13. Although the replacement dwelling would be of a sizeable scale, its most prominent front and rear elevations would be articulated through the use of fenestration and some modulation in the form of projecting and recessed sections. These design interventions would provide sufficient visual interest to its elevations whilst also providing some relief to the overall massing of the building.
14. The height of the replacement dwelling would not be dissimilar to the range found in the area and its siting centrally within the plot would maintain gaps from neighbouring dwellings. While the proposed garage would be located to the front of the dwelling, this would reflect the siting of the adjoining property to the east. Overall, the proposed arrangement respects the scale and layout of development on the northern edge of River Gardens.
15. Despite being larger, the new dwelling would be setback further from the River Thames relative to the dwelling it replaces. Therefore, and in the context of nearby dwellings, the generous spacing achieved from these and the retained landscaping, the overall scale of proposed development would not have any unacceptable effect on the setting of the River Thames.
16. For the above reasons, although I acknowledge that I have found the scheme would harm the openness of the Green Belt, I nonetheless consider that the proposal would not harm the character and appearance of the area and I find no conflict with Policies DG1, H10, H11 of the LP. Together, these Policies seek high standards of design, along with a compatibility with the street in particular with regard to scale and roofscape.
17. The proposal would also comply with the requirements of Policy N2 of the LP, which along with other things requires that the character, height, scale and the bulk of development respects the waterfront together with adjoining development and land uses.

Protected species

18. The site is located within a landscaped plot which abuts the River Thames and is surrounded by other landscaped gardens and areas of woodland. These areas are likely to incorporate priority habitat, which could be used by a range of protected and priority species, including bats.
19. The application is supported by a Preliminary Bat Roost Assessment (May 2020) which is based on an internal and external inspection of the existing bungalow. Accordingly, the assessment considers that the demolition of this is highly unlikely to lead to the loss of a bat roost or to the disturbance of bats.
20. However, the proposal includes the demolition of existing outbuildings on the site and although the appellant's ecologist advises that the removal of the outbuildings on the site would not have any ecological implications by reason of their form and condition not being suitable for bats, in the absence of survey evidence of these outbuildings to support this, the impact of the proposed development upon bats is not known. The scheme therefore fails to show that protected species would be safeguarded in accordance with Paragraph 180 of the Framework, 2021.

Other considerations

21. The Framework, 2021 advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. It is stated that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
22. The appeal site is within the boundary of a defined Recognised Settlement. Whilst Paragraph 2.1.4 of the LP advises that such areas may have the ability to absorb strictly limited amounts of residential development without harming the overall character of the Green Belt, this does not lend support to inappropriate development. Therefore, I attach limited weight to this.
23. Although the scheme would respect the properties around it, for the reasons already given it is inappropriate development which reduces the openness of the Green Belt. In any event, the lack of harm to the character and appearance of the area, the living conditions of neighbours and in relation to other technical matters such as flooding, trees, and transportation are neutral factors in the overall balance.
24. The appellant asserts that the appeal property benefits from permitted development rights under Class AA of the Town and Country Planning (General Permitted Development)(England)(Amendments)(No2) Order 2020 and Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. However, as already stated the assessment of what is materially larger is based on a comparison between the building as it exists and what is proposed. I therefore attach limited weight to this.
25. I have also taken account of the support in the Framework, 2021 for boosting the supply housing. However, as the proposal would not result in any increase in the number of dwellings, this and some local support for the proposal carry limited weight.

The Green Belt balance

26. The proposal would harm the Green Belt by way of inappropriateness and loss of openness. The Framework, 2021 requires substantial weight to be given to any harm to the Green Belt. It has also not been clearly shown that there would be no harm to protected species.
27. Having taken account of all the other considerations raised in support of the proposal, I find that these do not clearly outweigh the Green Belt harm and indeed the other harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the proposal conflicts with Policies GB1, GB2 and GB3 of the LP, along with the Green Belt provisions of the Framework, 2021.

Conclusion

28. For the reasons given above, I conclude that the appeal should be dismissed, and planning permission refused.

M Aqbal

INSPECTOR