

Appeal Decision

Site visit made on 23 August 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/G2245/D/21/3271754

The Willows, 2 Singles Cross Cottages, Blueberry Lane, Knockholt, Kent TN14 7NH

- 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 J Osenton against the decision of Sevenoaks District Council.
 - The application, Ref. 20/03752/HOUSE, dated 18 December 2020 was refused by notice dated 15 February 2021.
 - The development proposed is demolition of existing outbuildings; erection of single storey side extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the proposed extension would be inappropriate development in the Green Belt having regard to Government policy in the National Planning Policy Framework 2021 ('the Framework') and any relevant development plan policies; (ii) the effect of the extension on the openness of the Green Belt; (iii) the effect on the character and appearance of the area, and (iv) whether any 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 required to justify the proposal.

Background to the appeal

3. The planning history of Nos. 1 and 2 informs the process of decision-making in this appeal. The main parties are familiar with the events but to recap for the purposes of clarification, permission ref. SE/09/02845 was granted in January 2010 for the demolition of the then No. 1 (one half of a semi-detached pair with No. 2) and the erection of a replacement detached dwelling. As part of the permission, the garage and conservatory built as a side extension at No. 2 were to be demolished to allow a case of very special circumstances to be advanced in terms of the amount of built form on the sites of Nos. 1 and 2.
 4. The permission did not expressly require the removal of the side extension through a condition or agreement but a subsequent application (ref. 11/02917/FUL) for alterations to the replacement dwelling did, in the form
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of condition no. 1. A further application in 2012 (ref. SE/12/02736/HOUSE) was made for the retention of the side extension and the erection of two sheds (later amended to one) but refused in 2013 and the subject of an appeal. In dismissing the appeal, the Inspector considered that the extension had a significant and harmful impact on the openness of the Green Belt (paragraph 13 of the Decision). Other applications in 2015 (ref. 15/00714/HOUSE) and 2016 (ref. 16/00991/HOUSE) to ratify the side extension were refused permission. At some point (date not disclosed in the evidence) the extension was demolished following enforcement action.

Reasons

Issue (i): Whether Inappropriate Development

5. On the first issue, the Council considers that the single storey side extension would be inappropriate development in the Green Belt by virtue of the scale and cumulative impact of disproportionate additions to the dwelling. The officer's report explains that considering the previous additions, the appeal scheme would result in an uplift in floorspace from that of the original building of over three times the 50% limit in Policy GB1c) of the Sevenoaks Allocations and Development Management Plan 2015 ('the ADMP'). As such, the development would also be in conflict with paragraph 149c) of the Framework which only allows the extension or alteration of a building if it does not result in disproportionate additions over and above its original size.
6. For the appellants it is stated that '*From reviewing the planning history, the dwelling has been extended beyond the 50% threshold prescribed by Policy GB1 of the Sevenoaks ADMP. On this basis, in order to justify the proposal, the appellant has prepared a case of very special circumstances*'. I regard this as a tacit acknowledgement by the appellants of the proposed extension being inappropriate development in the Green Belt, albeit it is not part of the 'common ground' between the parties set out in the appeal statement.
7. In weighing the Green Belt balance in issue (iv) below, I shall also take into account that paragraph 147 of the Framework says inappropriate development is harmful by definition, whilst paragraph 148 says that when considering planning applications, local planning authorities should ensure that substantial weight is given to any harm that would be caused.

Issue (ii): Effect of the proposed extension on Openness

8. In regard to the impact of the proposed extension on the openness of the Green Belt, there would be the demolition of the existing front wall to the side of No. 2 and its replacement by the proposed garage / utility room building. This would be somewhat narrower than the existing wall and therefore provide more of a gap to No. 3 Singles Cross Cottages than currently exists. The more important gap in terms of maintaining openness at first floor and roof level between Nos. 2 and 3 would remain, especially with a flat roof instead of the previous pitch.
9. From the rear garden of the host dwelling the outcome of the development would be a noticeable loss of the gap and therefore openness between No. 2 and its neighbour. However, in the nearest public view from footpath

SK693 across the fields, the extension would be barely discernible because of the substantial distance and its siting between the flanks of Nos. 2 and 3.

10. However, the Court of Appeal decision extract in *Turner (2016) EWCA Civ 466* quoted in the grounds of appeal says that whilst the visual impact on the aspect of openness is relevant, the openness of the Green Belt also has a spatial aspect in terms of development. Thus '*the absence of visual intrusion does not in itself mean there is no impact on the openness of the Green Belt as a result of the location of a new or materially larger building there*'. Indeed, this is the approach that is explained in paragraph 5.16 of the Council's Green Belt Supplementary Planning Document and has been consistently applied for more than a decade in the development management of Singles Cottages.
11. In summary on this issue, I consider that the limited visual impact notwithstanding, significant weight should be given to the loss of openness that would result from the additional built form of the proposed single storey side extension of the host dwelling.

Issue (iii): Effect on Character and Appearance of the Area

12. Turning to the third issue, the Council considers that the proposed side extension would be over-development of the site and harmful to the character and appearance of the area in conflict with Policy EN1 of the ADMP. However, this is partly based on a misunderstanding that the extension would be no smaller than a previous scheme dismissed at appeal, whereas in fact it would be slightly narrower and would not extend beyond the rear wall of the main house.
13. In my view, the infilling of much of the gap between Nos. 2 and 3 would add substantial and permanent bulk to No. 2 as its 'disproportionate' status would imply. It is also likely that if the substantial hedge along the boundary between these two houses were to ever die or be removed, the views of the extension's side elevation would be seen as a harmful infilling of the gap that resulted from the earlier demolition. As seen from Blueberry Lane, this would have an adverse effect on the character and appearance of Nos. 1-5 and their immediate surroundings.
14. On the other hand, I have also had regard to the fact that, as the Council acknowledges, the addition would be set back from the forwardmost part of the front wall and the design would be in keeping with its context of the host building and its neighbours. Moreover, the building would be constructed of external materials to match the existing house. I therefore conclude that, leaving the effect on openness aside, the harm caused to the character and appearance of the area would be limited rather than significant. Be that as it may, there would still be an element of harmful conflict with Policy EN1 of the Sevenoaks ADMP in respect of the effect on the character and appearance of the area.

Issue (iv. a) Other Considerations: the appellants' case

15. The appellants argue that the appeal scheme would include the demolition of three outbuildings (referred to as 'Sheds 3, 4 & 5') within the curtilage of the appeal property and the partial demolition of a fourth ('Shed 2') in the

rear garden of No. 1. In the latter case, about a third of the resulting open space would be incorporated within the appeal site through a modification to the shared boundary.

16. Through these demolitions, which could be enforced through a planning condition, it is argued that when taken as a whole the appeal proposal would result in a reduction of built form on and adjoining the appeal site, thereby leading to a net increase in openness even after the extension has been built.
17. In support of this argument, the permission ref. 15/03185/HOUSE at No. 1 Singles Cross is cited in which the Council supported the amalgamation of three sheds into one as a positive measure to reduce both the amount of built form and the visual impact in the Green Belt. It is considered that the current appeal scheme would have a similar effect by a combination of a reduction in volume and a more discreet siting adjoining No. 2 which would be less visible from the public footpath.
18. I give this some weight but in noting the previous events, it appears to me that because the removal of the extension was a key factor in allowing the re-building of No. 1 as a detached dwelling with more floorspace and volume, its replacement through a permission in this appeal (albeit at a reduced size) would be tantamount to using the removal of the sheds as the justification for both the original development and the current scheme.
19. Furthermore, whilst the removal of Shed 5 would contribute to weighing the Green Belt balance in favour of the development in arithmetic terms, it cannot conceivably be counted as a benefit to openness because the site would then be used with adjoining land for the re-building of a side extension.
20. In respect of Shed 4, its size is so small that its removal would be essentially inconsequential to actual and perceived openness in the rear garden. Shed 3 is larger but is also modest in footprint and height and is a structure with a size and appearance wholly typical of a garden shed that might be expected in a large plot for the purpose of the storage of materials and garden paraphernalia. And again, apart from the cumulative arithmetic of its floorspace and volume being relevant to the 'trade off', I do not equate its existence with current harm to the openness of the Green Belt.
21. This leaves the demolition of half of Shed 2 which was referred to by the previous Inspector, correctly in my view, as '*a substantial pavilion type structure on a thick concrete base*'. In contrast to the other three sheds, I do regard the removal of a substantial part of this larger building, with its more robust and permanent appearance, as making a very useful contribution to increasing the openness of the Green Belt. And the contemporaneous re-alignment of the boundary line is a logical step.

Issue (iv. b) Other Considerations weighed against the harm caused

22. In summary, the harm caused by the proposed side extension would be the aggregation of the harm in principle by reason of inappropriateness; significant harm from the resulting loss of openness, and limited harm because of the adverse effect on the character and appearance of the area.

23. Other considerations need to be weighed against this overall harm and these comprise the proposed demolition of the sheds to increase openness in an area where their removal would potentially be more noticeable than development of a site already screened by an existing front wall.
24. As I have indicated, my assessment is that only the demolition of part of Shed 2 that would confer a noticeable and meaningful effect on the openness of the land to the rear of Singles Cottages. The removal of Sheds 3 & 4 would together have a slight additional benefit, whilst the demolition of Shed 5 is necessary in any event and its site would be subsumed by the side extension.
25. I also consider that overall, the appropriate weight given to the advantages of the removal of the Sheds would be diminished by the appeal scheme's negation of the benefit to openness in the original 2010 permission for Nos. 1 & 2.

Conclusions

26. For the reasons described above, I conclude that other considerations would fail to 'clearly outweigh' the cumulative harm that would result from the development of the side extension. Accordingly, the very special circumstances needed to justify the development do not exist in this case.
27. It follows that I must also conclude that the proposed extension would be contrary to Policy LO8 of the Sevenoaks Core Strategy 2011; Policies GB1c) & EN1 of the Sevenoaks Allocations and Development Management Plan 2015 and Government policy in Section 13: 'Protecting Green Belt Land' of the National Planning Policy Framework 2021.
28. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR