
Appeal Decision

Site visit made on 9 November 2021

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/K2230/D/21/3270667

The Retreat, Northfleet Green, Gravesend, Kent, DA13 9PN

- 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 Chow against the decision of Gravesham Borough Council.
 - The application Ref 20201207, dated 12 November 2020, was refused by notice dated 13 January 2021.
 - The development proposed is described as 'listed building application for the construction of an outbuilding and pavilion in the garden of The Retreat, Hazells Farm. The property is within the listed curtilage of Hazells.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As the outbuilding was largely complete and the pavilion was partially constructed at the time of my site visit, the proposal is retrospective.
3. Whilst the appellant refers to the site as being within the Windmill Hill Conservation Area, the Council has subsequently confirmed that this is not the case. I have dealt with the appeal on this basis.
4. On 20 July 2021, the Government published a revised version of the National Planning Policy Framework (the Framework). I am satisfied that the updates to the Framework do not materially affect its content insofar as it is relevant to the main issues of this appeal, and I am therefore satisfied that no parties have been prejudiced by my having regard to it.

Main Issues

5. The main issues are:
 - Whether the proposed development constitutes inappropriate development in the Green Belt,
 - Its effect on the openness of the Green Belt,
 - The effect of the proposal on the character and appearance of the countryside, including on the Instead Arable Farmlands Character Area;
 - The effect of the proposal on the setting of 'The Retreat', a curtilage listed building,

- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposed development constitutes inappropriate development

6. The appeal concerns a detached dwelling known as 'The Retreat'. It is one of a group of properties associated with 'Hazells' a property that is located to the east of the site. 'Hazells' is an early nineteenth-century dwelling that is listed, Grade II, as a building of special architectural or historic interest. As with several other buildings associated with 'Hazells', the appeal property whilst originally a garage and store, has subsequently been converted to an independent dwelling. It is now separated from 'Hazells' by walls and fencing.
7. The appeal site lies within a rural area that is designated Green Belt, where development is strictly controlled. Policy CS02 of the Gravesham Local Plan Core Strategy (2014) (CS) is a broad planning policy intended to restrict development in the Green Belt except in certain limited cases, by reference to national planning policies.
8. Policy C13 of the Gravesham Local Plan (1994) (LP) sets out more specific criteria for extensions to dwellings in the countryside. Among other things, it states that proposals for domestic garages and for other outbuildings will be required to be well designed, discreetly sited and subservient to the scale of the main dwelling on the plot. However, this policy pre-dates the first publication of the National Planning Policy Framework (the Framework). The Framework directs that policies should be afforded due weight having regard to the degree of consistency with it. There are clear inconsistencies between Policy C13 and the Framework although I acknowledge the broad thrust of the policy to protect the Green Belt from inappropriate development is consistent. Overall, due to the inconsistencies with the Framework, I afford Policy C13 little weight.
9. The Framework states that a local planning authority should regard construction of new buildings as inappropriate in the Green Belt. This is subject to the exceptions listed in paragraph 149 of the Framework. Of these, the Council consider indent (c) to be most relevant which allows for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
10. The outbuilding and the garden pavilion are free standing structures. A High Court Judgement¹ established that separation alone does not prevent a development from being part of a dwelling. Whilst that case related to a garage building, which the Inspector considered could be regarded as a 'normal domestic adjunct' the use of the development in this case, as an office/games room/cinema and garden pavilion could likewise be said to be a normal domestic adjunct. Therefore, taking into account of the use and close proximity to The Retreat, it is my view that the development can reasonably be treated as an extension when applying Green Belt policy. Moreover, the appellant has not suggested otherwise.

¹ Sevenoaks District Council v Secretary of State for the Environment and Dawe [1997] EWHC Admin 1012

11. As stated above, the exception listed at paragraph 149 (c) of the Framework allows for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The 'original building' is defined in Annex 2: Glossary of the Framework as '*A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was originally built.*'
12. The Council confirm within their officer's report that the previous additions to the building already amount to a percentage increase of 253.26% although it is not clear whether this figure relates to floor space or volume. Whilst I have not been provided with full details of these previous additions, on the basis of the evidence before me, I have no reason to doubt this assertion. The appeal proposal would add a significant amount of additional floor space which the Council has calculated to amount to approximately 102.5sqm.
13. The Framework does not define what a disproportionate increase in size would be. In my judgement, the proposed buildings would add further significant floorspace and volume to the site which cumulatively would be disproportionate to the size of the original dwelling when considered with previous additions. Furthermore, whilst the location of the larger outbuilding is relatively well screened and discreet, the proposal would not be subservient to the modest scale of the host dwelling in terms of its footprint and overall size and scale.
14. The proposed development would therefore result in disproportionate additions over and above the size of the original dwelling. As such, I conclude that the appeal proposal would be inappropriate development in the Green Belt and, as defined by the Framework, harmful and substantial weight should be given to that harm. Furthermore, in this respect, the appeal proposal would not comply with the requirements of Policy CS02 of the CS or Policy C13 of the LP which seek to protect the Green Belt.

Openness

15. The Framework confirms that inappropriate development is by definition harmful to the Green Belt. The essential characteristics of Green Belts are their openness and permanence.
16. In this case, based on the evidence before me, the development would result in buildings where previously none existed. The larger outbuilding is not insignificant in terms of its overall footprint, height and scale and represents a relatively large addition to the built form of the site. The pavilion building would add further built form although its effect on openness would be reduced by its limited scale and open-sided design.
17. I acknowledge that the buildings are well screened by existing boundary fencing and walls. Opportunities to view the development from outside the site are limited, other than for more distant views from the upper windows of neighbouring dwellings. While the change in amount of built form within the site would be clearly discernible to occupants of the dwelling itself, the overall visual impact on openness would not be significant.
18. However, the absence of significant visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. When considered as a whole, the spatial impact of the development means that it would clearly fail to

preserve the openness of the Green Belt. I assign moderate weight to this further harm to the Green Belt.

Character and appearance of the countryside

19. The site is within the Instead Arable Farmlands Landscape Character Area as identified within the Gravesham Landscape Character Assessment (May 2009). The character area is described as gently undulating topography with open arable farms and clusters of properties and farmsteads. The condition of the landscape is generally poor, and its sensitivity is moderate. Policy CS12 of the CS states among other things, that overall landscape character and valued landscapes will be conserved, restored and enhanced.
20. The development is well screened by existing boundary enclosures and the buildings are not readily visible from outside of the domestic curtilage of the site. Views of the buildings are not therefore widely obtainable from the wider countryside. In any event, the design and materials of the buildings would not be inappropriate in a rural location.
21. Therefore, whilst the buildings increase built form of the site, in my view this does not rise to the level of an unacceptable impact on the character and appearance of the surrounding countryside. There would be no conflict with Policies CS19 and CS12 of CS which together seek high quality design and to conserve, restore and enhance landscape character.

Setting of 'The Retreat', a curtilage listed building

22. The Council's main concern in this regard relates to the effect of the proposal on 'The Retreat', which they consider to be a curtilage listed building due to its historic association with 'Hazells'. This is consistent with the appellant's original description of the development as set out in the application forms.
23. The appellant subsequently considers that the separate occupation of 'The Retreat' and the boundary treatments now result in it no longer being within the curtilage of 'Hazells'. However, these two factors alone cannot be conclusive that this is the case. In any case, neither the appellant nor the Council has made detailed submissions on the matter. I shall, therefore, consider the appeal on the same basis as the Council and what was originally applied for in the initial application.
24. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
25. Furthermore, the Framework advises that heritage assets are irreplaceable resources and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Development Plan policies aimed at protecting heritage and the historic environment include Policy CS20 of the CS and Policy TC2 of the LP.

26. The host dwelling, 'The Retreat' appears to have been significantly extended such that its original form is not readily apparent. Various boundary enclosures have also diminished the visual connection between 'Hazells', 'The Retreat' and other buildings formerly associated with 'Hazells', including 'The Stables' to the south of the site.
27. The proposed outbuilding has a large footprint but its low height and siting close to the front boundary of the site means that it is not readily visible from the adjacent access road. Furthermore, its positioning to the front of 'The Retreat' and its separation by the driveway leading to the dwelling results in a visual distinction between the two buildings. The building is constructed in materials including black painted timber weatherboarding which I consider are generally appropriate to the character and appearance of 'The Retreat', and do not significantly detract from it. Whilst some views of the building would be obtainable from 'Hazells' itself I do not consider that it would materially harm its setting or architectural and historic significance. Furthermore, the building would not be viewed in the same context as other buildings in the immediate vicinity that also have a historic association with 'Hazells'.
28. Similarly, the proposed garden pavilion would be a lightweight, open sided structure that whilst relatively close, would not significantly detract from or visually compete with 'The Retreat' and would not harm its setting.
29. For these reasons, therefore, the proposed development would not conflict with Policies CS19 and CS20 of the CS which seek to ensure developments respect the local character and preserve the historic environment respectively. Furthermore, it would not conflict with Policy TC2 of the LP which seeks to preserve the integrity of listed buildings. There would also be no conflict with Sections 12 and 16 of the Framework insofar as it promotes good design and seeks to protect the historic environment.

Other considerations

30. The appellant states that the occupants were unaware that planning permission was required for the buildings as they assumed the property benefitted from Class E permitted development rights. I have sympathy with the appellant in this regard. I also acknowledge the benefits of the proposal in providing additional leisure and recreational space for the occupants of the dwelling.

Planning Balance and Conclusion

31. Inappropriate development is, by definition, harmful to the Green Belt. There is further harm in this case to the openness of the Green Belt. Whilst I have not identified any material harm to the setting of the curtilage listed building or to the wider character and appearance of the countryside, these are neutral factors which do not weigh for or against the proposal in the overall balance.
32. Taken together, the other considerations are not sufficient to outweigh the substantial weight that must be attached to the harm the proposed development would do to the Green Belt by reason of its inappropriateness and the harm to openness. Therefore, I conclude that the very special circumstances needed to justify the development do not exist.

33. For the above reasons, I conclude that the appeal should be dismissed.

J Davis

INSPECTOR