



Appeal Decision

Site visit made on 17 January 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/G2245/W/21/3276040

Land to the rear of Hurstgrove, Castle Hill, Hartley, DA3 7BQ

- 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 Ms J Holmes against the decision of Sevenoaks District Council.
 - The application Ref 21/00845/FUL, dated 17 March 2021, was refused by notice dated 13 May 2021.
 - The development proposed is demolition of existing buildings and structures and erection of a subterranean detached single storey three-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
3. Updated existing and proposed massing drawings have been submitted in support of the appeal that show volumetric information. This information does not materially alter the proposal. In accepting the modelling diagrams, I do not consider the interests of parties who might wish to comment would be prejudiced. For this reason, I have had regard to these plans.
4. The appeal site has been subject to a previous refused planning permission and dismissed appeal for the demolition of existing buildings and structures and erection of a detached single storey dwelling. On the information that I have been provided by the parties this proposal differs to that of the previously proposed schemes in that it seeks to create a dwelling of subterranean form. For the purposes of clarity, I have considered the proposal, the subject of this appeal, on its own merits.

Main Issues

5. The main issues raised in respect of this appeal are: -
 - a) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies and the effect of the proposal on the openness of the Green Belt; and

- b) Whether harm by reasons of inappropriateness, and any other harm, is clearly outweighed by the other considerations. If so, would those amount to the very special circumstances required to justify the proposal?

Reasons

Green Belt and openness

6. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristic of Green Belts being their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The Framework states that the local planning authority should regard construction of new buildings as inappropriate development in the Green Belt unless it is one of seven specific exceptions (paragraph 149) of the Framework. From the evidence before me I consider the issue in dispute relates to paragraph 149g of the Framework. This pertains to *"limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would; not have a greater impact on the openness of the Green Belt than the existing development; ..."*.
8. The proposed development would be positioned behind those dwellings that front onto Castle Hill and to where that land to the south, east and west has a more open character. There are some sporadic dwellings, outbuildings and equestrian structures behind the existing road frontage development. However, there are no substantial structures that abut the site to which the proposed dwelling might represent infilling within or between.
9. The site hosts a number of buildings and structures that are permanent and relate to the historic commercial use of the site. The land would, therefore, represent previously developed land.
10. The proposal is to erect a subterranean dwelling. The plans show that the dwelling would be partly sunken into the land contours, similar to that of the existing carp tank. The Council has undertaken a mathematical exercise which indicates the existing development at the site would have an approximate floor area of around approximate 362.53m² and a volume of 481.77m³. A mathematical exercise for the proposed dwelling would reduce the floor area to approximately 261.93m² but would increase the overall volume to around 796.26m³. The Council indicates that this would add a further approximate 65% beyond the existing volume of built development at the site.
11. The appellant contests the Council's mathematical calculation saying that from their calculation totalling up the existing development at the site would have a volume of approximately 512.6m³ compared to the proposed development that would have an approximate volume of 662m³. This would still be an approximate increase in built volume at the site of around 106.8m³ said to be an increase in volume on site of around 29%.
12. The proposed dwelling would be predominantly located within that of the existing structure of the former carp tank but is not fully exclusively below existing ground level. The appellant advises that the actual above ground volume resulting from the development would be approximately 53.89m³

compared to an existing volume of 512.6m³. It is indicated that this would be around a 89% reduction in above ground volume. The appellant has used the updated modelling diagrams to inform these volume calculations.

13. I have been referred to an appeal decision at Four Winds, Kingston Lane, Claverdon, Warwickshire (Ref: APP/J3720/W/17/3177670). The proposed dwelling in that case had a basement that was totally below ground. The Inspector concluded that the visible buildings would have a similar volume as the existing development and that the proposal would have no greater impact upon the openness of the Green Belt than the existing development.
14. There are several structures scattered across the site, however the site has a spatial sense of openness, and this characterises the site. A Court of Appeal case (Turner v Secretary of State for Communities and local Government [2016] EWCA Civ 466) recognised that volumetric matters may be a material consideration but is by no means the only factor relevant to the visual impact on the aspect of openness which the Green Belt presents.
15. The dwelling would be materially larger than those buildings and structures at the site that it would replace. That part of the development that is underground would not have a greater impact on openness. On the available evidence before me removing the existing buildings and structures on site would represent a significant reduction in above ground existing volume. There would be a lesser impact on openness if these were removed to off-set the above ground volume. However, those buildings and structures are at different locations within the site to that of the carp tank and to where the dwelling is proposed. I have not been presented with any mechanism that would secure their removal. As such, these buildings and structures could remain. Unless there is a clear mechanism in place that would secure the removal of these buildings and structures, the proposal does not demonstrate that it would reduce the impact on openness, volumetrically or visually. The Council has not suggested any planning conditions that might overcome this.
16. The design of the dwelling, which would incorporate a green roof, would be considered acceptable when taken on its own merit. However, the proposal without a mechanism in place that would secure the removal of the existing buildings and structures would increase the resulting volume of built development at the site. This would have a greater effect on openness. The development would also extend the driveway access into the site creating a new feature. Taken collectively, this would represent urban sprawl. The development would not comply with the Government's fundamental aim of Green Belt policy to prevent urban sprawl.
17. Consequently, there would be harm to openness. As such, the proposed development would not comply with the exceptions of paragraph 149 of the Framework as it would be inappropriate development in the Green Belt. The proposal would conflict with Policy LO1 of the CS. A landscaping scheme that could be controlled by condition would not prevent encroachment of the development into the Green Belt and, therefore, would not ameliorate my concerns sufficiently to allow the proposal to be allowed.
18. It is suggested that in the context of existing surrounding land uses the appeal site would not contribute significantly to any of the five purposes of including land within the Green Belt (paragraph 138 of the Framework). However, this

does not obviate the fact that the land subject to this appeal is designated Green Belt.

19. Policy GB1 of the Sevenoaks Allocation and Development Management Plan allows for a 50% increase in total floorspace above that of the 'original' dwelling when considering proposal to extend properties within the Green Belt. However, the proposal before me does not relate to an extension of an existing dwelling to which a 50% increase in floorspace could be applied.

Other considerations

20. The Council's own Green Belt Assessment, undertaken in support of the emerging Local Plan Process, considers the area in which the appeal site is located to be worthy of further consideration for Green Belt release. However, any such allocations are for consideration through the relevant plan adoption process. This offers little support for the proposal.
21. The Council has a housing supply shortfall. If there is not a five-year supply of deliverable sites in place, the provisions of paragraph 11d) of the Framework should be applied. Paragraph 11d)i indicates that the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 that corresponds to paragraph 11d)i lists designated Green Belt amongst those that are of particular importance. Therefore, the Council's housing supply shortfall holds no weight in favour of the proposal. In any event, the contribution one dwelling would have to housing supply would be minimal.

Conclusion

22. The proposal would conflict with Policy LO1 of the CS. The proposed development would result in harm to the openness of the Green Belt and would, by definition, be harmful to the Green Belt. I attach substantial weight to the harm to the Green Belt having regard to the policy in the Framework. The benefits of the other considerations do not clearly outweigh this harm. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
23. Having regard to all matters raised, the appeal should be dismissed.

Nicola Davies

INSPECTOR