



Appeal Decision

Site visit made on 2 November 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2022

Appeal Ref: APP/T0355/W/21/3277926

York House, Church Road, Cookham Dean, Maidenhead SL6 9PG

- 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 Tuddenham against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 20/02892, dated 30 October 2020, was refused by notice dated 11 January 2021.
 - The development proposed is demolition of the existing dwelling and detached garage and the erection of a replacement dwelling and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Additional plans were submitted at the appeal stage (PL-120, PL-130, PL-140, PL-150), which provide further details with respect to site levels. These plans do not substantially alter the nature of the proposal, and I am satisfied that the parties' interests would not be prejudiced by these plans being considered in this appeal. Therefore, I have considered these plans as part of this appeal.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken any made into account. I have had regard to the 2021 version of the Framework in my decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - whether the proposal would preserve or enhance the character or appearance of the Cookham Dean Conservation Area; and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

5. The National Planning Policy Framework (the Framework) establishes that the construction of new buildings within the Green Belt is inappropriate. There is a closed list of exceptions to this in paragraph 149 of the Framework. One of which relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (paragraph 149 d)).
6. This principle is reflected in Policy GB3 of The Royal Borough of Windsor and Maidenhead Local Plan (adopted 2003) (Local Plan) which provides that, amongst other things, there will be a general presumption against allowing proposals for residential development except where the proposal relates to the rebuilding or one-for-one replacement of an existing habitable dwelling of permanent construction whose residential use is not seasonal or occasional and which has not been abandoned, and that the replacement dwelling should not be materially larger or result in a material alteration to the scale of development on the site. As Policy GB3 is partially consistent with the Framework, I attach greater weight to the Framework in my consideration of this main issue.
7. The appellants have referred to the fact that the proposed replacement buildings would be located within the boundary of an existing settlement, within an area that is already built-up. Nevertheless, the relevant assessment to be made under paragraph 149 d) of the Framework is whether the proposed replacement building would be materially larger than the one it replaces.
8. In this regard, it is common ground between the main parties that the proposed replacement buildings would result in a floorspace increase of at least approximately 50% when compared to the buildings to be replaced. This provides a clear indication that the proposal would result in a considerable increase in size, over-and-above the existing buildings.
9. Additionally, although the proposed replacement dwelling would have a similar ridge height to the existing dwelling, when considered overall it would be much bulkier than the existing dwelling. The orientation of the proposed replacement dwelling would reduce the visual impact of the additional bulk, but nonetheless in physical terms the proposed replacement dwelling would be materially larger than the existing dwelling.
10. I therefore find that the proposed replacement buildings, when considered collectively, would be materially larger than buildings to be replaced, in conflict with paragraph 149 d) of the Framework. The proposal therefore constitutes inappropriate development in the Green Belt for the purposes of the Framework. Inappropriate development is, by definition, harmful to the Green Belt. For the same reasons, the proposal would conflict with the purpose of the Green Belt in terms of its assistance in safeguarding the countryside from encroachment.

Openness

11. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.

12. The proposed replacement buildings would be set-back somewhat from Church Road and would be heavily screened due to the presence of mature hedgerow and trees around the site. As such, the proposal's impact on the openness of the Green Belt would be limited in visual terms.
13. Nevertheless, the proposal would result in a replacement dwelling which would be materially larger than the existing dwelling. Accordingly, in spatial terms a fairly limited reduction in the openness of the Green Belt would occur, causing harm to the Green Belt.

Conservation Area

14. The site is within the Cookham Dean Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
15. The significance of the conservation area, as a whole, as a designated heritage asset is derived predominantly from its distinctly semi-rural character with verdant narrow lanes and typically fairly large dwellings sat within generously-sized plots, with attractive and historic buildings being common throughout. As explained in the Conservation Area Statement: Cookham Dean (1998), the site is part of the most recognisably village-like part of the conservation area. The site contributes to the significance of the conservation area primarily by the spaciousness of its grounds and its abundance of soft landscaping which largely surrounds the plot.
16. The additional plans, referred to at paragraph 2, above, provide sufficient information regarding site levels. As the overall height of the proposed replacement dwelling would not appear significantly different than the existing dwelling, when viewed from Church Road, the proposal would be acceptable in this respect.
17. Crown roof forms are present on a number of dwellings within the conservation area and the proposed replacement dwelling would not be unusual in that regard. It would also create an active frontage towards Church Road, with its orientation following the existing line of development.
18. However, the proposed replacement dwelling would be dominated by overly-large expanses of roof forms on its front and rear elevations. Furthermore, the single-storey element would detract from the coherence of the building as a whole, as it would noticeably disrupt the near-symmetry of the main part of the dwelling. It is recognised that the chosen materials have been selected taking account of those used at nearby dwellings, but the amount and considerable variety of the proposed materials would further compromise the legibility of the dwelling.
19. Therefore, whilst the style of the existing dwelling is not sympathetic to the conservation area, and the conservation area as a whole is characterised by a great degree of variety in terms of the architectural form and appearance of dwellings (as demonstrated in the examples put forward by the appellant), the proposed replacement dwelling would not be well-designed. I observed that, despite the presence of soft landscaping to its frontage, views into the site are possible from Church Road and consequently the proposal would undermine

the presence of attractive and historic architecture in the conservation area, meaning that it would harm the significance of the conservation area as a designated heritage asset.

20. As the harm to the conservation area would be localised, the proposal would cause less than substantial harm to the significance of the conservation area as a designated heritage asset, but nevertheless this harm is of considerable importance and weight. The Framework advises that such harm should be weighed against the public benefits of the proposal.
21. In this regard, the proposal would bring the site back into active use and would provide a replacement family-sized dwelling. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. I give moderate weight to the benefits of the proposal and find that they do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the conservation area.
22. I therefore find that the proposal would neither preserve nor enhance the character or appearance of the conservation area. Thus, the proposal would conflict with Policy CA2 of the Local Plan, which provides that, amongst other things, in respect of conservation areas the Borough Council will require that any development will enhance or preserve the character or appearance of the area. The proposal would also conflict with the Framework, which seeks to, amongst other things, conserve and enhance the historic environment.

Other Considerations

23. As the proposal includes a replacement dwelling there would not be any additional impacts on services and facilities in the locality. The proposed replacement dwelling would be appropriately located with respect to sustainable transport, and would incorporate measures to ensure efficiency with respect to energy, carbon dioxide, and water. The proposal also aims to be low-impact with respect to materials, waste, pollution, and construction and building management. The future occupiers of the proposed replacement dwelling would enjoy good levels of daylight and have a good level of private amenity space at their disposal, which may contribute to their health and well-being. As all these matters merely denote compliance with the development plan and are a function of the site's location, collectively they have been given limited weight.
24. A fall-back position exists, in relation to 3 Certificates of Lawfulness¹ and an extant planning permission². Considering that, on the evidence before me, some of these consents have been part implemented, I consider that there is a real prospect that some or all of those developments would be fully implemented, in the event that this appeal is dismissed.
25. If the existing dwelling were to be fully extended, including the single-storey rear extensions, it would retain its varied eaves height and differing sloping roofs, whereas the main part of the proposed replacement dwelling would have a consistent eaves height and large expanses of roof forms. However, the proposed replacement dwelling would also have a slight tapering off with respect to the ridge heights of both of the side wings, which would be set-back from the front of its central section.

¹ 11/01624/CPD, 11/02301/CPD, 11/03242/CPD

² 12/00267/FUL (renewed under 15/01678/FUL and 18/01263/FUL)

26. As such, whilst the proposed replacement dwelling would appear to have a larger massing and bulk than the fully extended existing dwelling, there would not be a significant difference between the 2 schemes in these respects, especially considering that the ridge heights would be broadly similar. Additionally, due to the orientation of the proposed replacement dwelling, the side elevations would be unlikely to be visible from public vantage points. Thus, in visual terms the proposed replacement dwelling would only appear to be slightly larger with respect to massing and bulk than the fully extended existing dwelling.
27. The consented single-storey outbuildings would visually intrude upon the openness of the Green Belt. However, given that the outbuildings would be set-back somewhat from Church Road, the reduction in openness in visual terms would not be excessive. Considering the fully extended existing dwelling and the consented single-storey outbuildings collectively, in visual terms the fall-back position would only be marginally more harmful to the openness of the Green Belt than the appeal proposal.
28. With respect to floorspace, the Council have mentioned that they have calculated a smaller percentage increase based on the dwelling being extended than as shown in the appellants' figures, but as the Council have not provided their own figures, I have based my assessment with respect to the fall-back position on the appellants' figures. These show that if the existing dwelling were to be fully extended, an approximately 71% increase in gross external area would occur, over-and-above the existing dwelling. This compares to a gross external area increase of approximately 53% in relation to the proposed replacement dwelling. Additionally, the consented outbuildings, whilst being single-storey, would also materially increase the spread of development across the site. Nevertheless, a fair degree of open space would still remain within the site as a whole, even if the fall-back position were to be fully implemented.
29. Taking all of the above into account, the fall-back position, if fully implemented, would be more harmful to the openness of the Green Belt than the appeal proposal, but not significantly. For these reasons, I have given the fall-back position moderate weight in favour of the proposal.

Balancing of Considerations

30. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes 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.
31. The proposal would be inappropriate development in the Green Belt and would result in a reduction in its openness. These matters carry substantial weight. There would be additional harm caused to the significance of the conservation area as a designated heritage asset, to which I have given great weight. For the above reasons I attach no more than moderate weight to the benefits of the proposed development which make up the other considerations. Thus, taken together, I find that the other considerations in this case do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist.

32. Therefore, the proposal would not comply with Policies GB1, GB2 and GB3 of the Local Plan, which collectively provide that, amongst other things, permission will not be granted for new development or the redevelopment, change of use, or replacement of existing buildings within the Green Belt if it would have a greater impact on the openness of the Green Belt or the purposes of including land in it than an existing development on the site. The proposal would also conflict with the Green Belt aims of the Framework.

Conclusion

33. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR