The Planning Inspectorate

Appeal Decision

Site visit made on 15 February 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2022

Appeal Ref: APP/U2235/D/21/3280658
3 Rose Cottages, Maidstone Road, Nettlestead ME18 5HB

- 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 Alex Marshall against the decision of Maidstone Borough Council.
- The application Ref 21/501935/FULL, dated 8 April 2021, was refused by notice dated 4 June 2021.
- The development proposed is Demolition of existing temporary timber structure and erection of part single storey, part two storey side and rear extension.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the application was determined the revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and the Appellant the opportunity to comment upon the implications of this for their respective cases.

Main Issues

3. 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;
   - the effect of the proposal upon the character and appearance of the host building, terrace, and countryside; and,
   - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt, within which Policy SP17 of the Maidstone Borough Local Plan (2017) (the LP) states development will be managed in accordance with national guidance. Paragraph 147 of the

Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The Framework identifies the construction of new buildings should be regarded as inappropriate in the Green Belt, subject to some exceptions. One of these is the extension of a building provided it does not result in disproportionate additions over and above the size of the original building (paragraph 149c).

5. The appeal site accommodation primarily includes an end of terrace dwelling, side porch, and a more modern detached timber outbuilding. The outbuilding was not part of the original building or present on 1 July 1948, so does not constitute part of the original building as defined in Annex 2 of the Framework. There is no disagreement between main the parties that the new extension would result an over doubling in volume of the dwelling, which concurs with the plans before me. It would be disproportionate to the main dwelling, so the development would not meet the exception under paragraph 149c).

6. Paragraph 149g) of the Framework lists an exception to inappropriate development as the partial or complete redevelopment of previously developed land (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. Being within a residential garden outside a built-up area, from what I saw, the site falls within the definition of previously developed land in Annex 2 of the Framework. My findings in respect of openness will be determinative as to whether or not the development is inappropriate development.

Openness

7. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence (paragraph 137). While the full details of the proposals to which they relate are not before me, the principles and findings set out in the caselaw judgements provided by the appellant[1] are noted, including the basis for and matters upon which, to assess openness in judging whether a proposal constitutes inappropriate development.

8. The proposals include the demolition of what I am informed is a temporary wooden building. As a temporary building the effect on the openness of its removal should not be taken into account under paragraph 149g) of the Framework. Based upon this the proposed extensions would result in a considerable increase in the footprint, width, depth, bulk, volume, and scale of the dwelling, resulting in significant harm to the visual and spatial openness of the Green Belt.

9. However, I have also had regard to the scenario that the wooden building might be considered as a non-temporary structure, that is proposed to be removed. On this basis and having regard to the more compact area of buildings that would result on the appeal site, given the part single part two storey height of the proposed extension and an increased sense of development, the marked overall increase in volume, bulk, and massing of built

[1] Euro Garages Ltd v Secretary of State for Communities and Local Government [2018] EWHC 1753 (Admin) 11 Jul 2018, [2019] P.T.S.R. 526;
John Turner v SoS CLG [2016] EWCA Civ 466;
Rookery Estates Co v Bromley LBC Planning Inspector [2019] 6 WLUK 791 25 Jun 2019, [2019] P.A.D. 37;
R (Samuel Smith Old Brewery) v North Yorkshire County Council [2020] UKSC 3;

development at the appeal site, the proposed development would still result in moderate harm to the visual and spatial openness of the Green Belt. The proposed development would also be discernible as a significantly greater addition to the terrace.

10. The harm to visual and spatial openness would be significantly visible from the front of the appeal site along a significant length of relatively open section of the Maidstone Road and a significant proportion of the agricultural field to the rear.

11. For the reasons set out above the proposals would have a harmful effect upon the openness of the Green Belt, in conflict with Policy SP17 of the LP and the Framework, which aim to ensure the openness of the Green Belt is preserved.

Character and appearance

12. The appeal site and period terrace of three dwellings is located within rural surrounds. Save for a single storey building to the south of the appeal site there are generally wide gaps to the north and south of the terrace and garden areas, so it is prominent in the street scene. The red brick front façade integrating matching window openings in keeping with the character and appearance of the period terrace, and the single storey height of the outbuilding, means the appeal site makes a neutral contribution to the character and appearance of the terrace and countryside.

13. The increased width, depth, bulk, scale, and massing of the dwellinghouse would result in the overall development being significantly in conflict with the 50% volume advice at paragraph 5.18 of the Residential Extensions Supplementary Planning Document (2009) (the SPD) for rural locations. Features such as the height of the eaves and first floor front, side and rear fenestration would relate poorly to the character and appearance of the host dwelling and do not exhibit a good quality of design.

14. A suitably worded condition might be able to secure some fenestration changes to be more compliant with the SPD and the host building, as well as the removal of the outbuilding. However, notwithstanding this and the setback, the scale of this development would not result in it being subservient to the host dwelling. Instead, the proposal would result in a dominant addition that would not relate well to and would be significantly harmful to the host dwelling.

15. The combination of the set back and eaves height means the side extension at No 1, retains the eminence and prominence of the original terrace, and that extension is not a significant detractor to this. The appeal scheme would result in some overall increase in symmetry in respect of matters such as volume, bulk, and massing. However, given its eaves height and the width of the rear ground floor projection, it would not result in full symmetry. With a more sensitive fenestration and the removal of the outbuilding, the proposed development would result in a neutral effect overall to the character and appearance of the terrace and area. However, it would not sufficiently mitigate the harm to the dwelling, such that the overall effect is one of limited harm.

16. For the reasons set out above the proposed development would be harmful to the character and appearance of the host dwelling, in conflict with Policies DM30 and DM32 of the LP. Amongst other things these require development is well designed, respects local building styles and of a scale that relates

sympathetically to and does not overwhelm the existing dwelling. This conflict means the development also conflicts with criteria 2 of Policy SP17. It would conflict with paragraphs 8 and 130 of the Framework insofar as these expect development to be sympathetic to the surrounding built environment and be visually attractive as a result of good architecture.

Other considerations

17. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It is clear that substantial weight should be given to any identified harm to the Green Belt.

18. The proposal would increase the living accommodation at the appeal site dwelling, which is a limited benefit. That no neighbouring occupiers have objected is noted. However, my assessment and findings are different in respect of the openness of the Green Belt and the character and appearance of the host dwelling. Compliance with policies in respect of matters such as the living conditions of neighbouring occupiers would be a neutral matter. There is no substantive evidence to suggest any biodiversity enhancements that might be secured by planning condition would be anything other than a minor benefit.

19. The appellant informs me a policy compliant proposal of around 50% of the volume of the dwelling could be erected, or a proposal that may be harmful to the character and appearance of the terrace. I have no plans, measurements, designs, costings, or other substantive details before me. It is also not clear whether such proposals would require express consent or benefit from a deemed consent. However, even if such proposals could be erected, this appeal scheme would still represent a further increase in built development and a harmful effect upon openness. The appellant's submissions do not persuade me that such proposals would be more harmful overall than this appeal proposal. Therefore, based upon the very limited evidence before the fall-back positions are attributed limited weight.

Green Belt Balance & Conclusion

20. The factors and benefits set out would not clearly outweigh the harm identified to the Green Belt and the other harm to the character and appearance of the host dwelling which carries substantial weight, so as to amount to the very special circumstances necessary to justify the proposal. Therefore, the proposal conflicts with the development plan and paragraphs 147 and 148 the Framework in this regard, and material considerations do not lead me to a decision otherwise.

21. The proposed development would be contrary to the development plan and the Framework read as a whole, and there are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR