

Appeal Decision

Site visit made on 13 June 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2022

Appeal Ref: APP/M3645/W/21/3284392

9 Beulah Walk, Woldingham CR3 7LN

- 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 and Mrs Gavin against the decision of Tandridge District Council.
 - The application Ref TA/2021/365, dated 2 March 2021, was refused by notice dated 24 June 2021.
 - The development proposed is the erection of replacement building including demolition of all existing buildings, sheds, garages and other outbuildings on site; new dwelling on two storeys (part sunken into the land slope) to incorporate an upper floor small balcony overlooking open countryside to rear, and hardstanding to facilitate formation of front driveway, together with a single storey side area sunken into the ground with a green roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The officer report refers to the relevant policies of the Emerging Tandridge Local Plan 2033. However, the evidence before me does not indicate that the emerging plan is at an advanced stage of preparation and the extent to which there are unresolved objections to the relevant policies is unknown. These policies therefore carry little weight.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the development plan and the National Planning Policy Framework (the Framework);
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on ecology, including protected species; and
 - If it is 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 the development.

Reasons

Whether inappropriate development

4. The appeal site comprises a detached bungalow set on steeply sloping land on the northern side of Beulah Walk within Woldingham Garden Village. The property is set back from the road with a large garden and raised patio to the rear. There are several outbuildings within the curtilage of the property, including a detached garage to the front. A public footpath runs along the eastern boundary of the site. The immediate area is characterised by large dwellings within large plots surrounded by open countryside. The site is within the Green Belt.
5. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies (2014) (Local Plan) states that inappropriate development is, by definition, harmful to the Green Belt and will normally be refused. This reflects the approach set out in paragraph 147 of the Framework. Policy DP13 of the Local Plan sets out that unless very special circumstances can be clearly demonstrated, the Council will regard the construction of new buildings as inappropriate in the Green Belt, subject to certain exceptions. This approach is consistent with paragraph 149 of the Framework.
6. One of the exceptions outlined in Policy DP13 of the Local Plan is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy DP13 of the Local Plan and the Framework do not define the term materially larger. Consequently, this is a matter to be determined on a case by case basis.
7. The proposed dwelling would be in the same use as the one that it would replace. In terms of the dispute about whether the replacement dwelling would be materially larger than the existing building, the Council states that the existing dwelling has a floor area of about 72m², whilst the appellants say that the floor area of the existing dwelling measures 66m². The proposed floor area would be increased to 197m², which would represent a significant increase in floor area. The Council states that the proposal would have a volume of 496m³ above ground level compared to 291m³ for the existing dwelling. This would represent an increase of 70%. The appellants' drawing indicates that the volume of the existing dwelling is about 315m³. Using that figure, the proposal would still result in a significant volume increase of around 57%. The appellants indicate that the proposal, when compared to the existing situation, would result in an increase in volume of 9%. However, that calculation takes into account the existing outbuildings within the curtilage of the property.
8. Whether a replacement building would be materially larger is also influenced by other factors such as the relationship in terms of scale, massing, height and form. Although part of the proposal's additional floor area would be underground, when the proposal is viewed from the road it would have a notably greater height and width than the existing dwelling. From the rear, it would appear as a two storey property in contrast to the more modest proportions of the existing bungalow. The existing outbuildings are scattered across the site and very modest and visually unobtrusive. Even were I to include the outbuildings alongside the existing dwelling in assessing any increase in floor area and volume, the increased height, width and bulk of the proposed dwelling compared to the existing mean that it would appear as a materially larger building.

9. Notwithstanding that the proposal has been reduced in size since the previous appeal scheme¹ and that its footprint would not be significantly larger than the existing building, I conclude that the proposed dwelling would be materially larger than the existing dwelling and would therefore be inappropriate development in the Green Belt. Such development is, by definition, harmful and is contrary to the guidance in paragraphs 147 and 149 of the Framework and Policies DP10 and DP13 of the Local Plan, the aims of which are set out above. The resultant harm should be given substantial weight in determining the appeal.

Openness

10. The Framework states that the essential characteristics of Green Belts are their openness and permanence. Openness has both spatial and visual aspects.
11. Notwithstanding the removal of the existing outbuildings, I have found above that the proposed building would be materially larger than the existing building. The proposed development would be clearly visible from Beulah Walk and partially visible from the adjacent public right of way to the east. The increased scale and massing of the proposed dwelling would result in a loss of spatial and visual openness. The proposal would conflict with the fundamental aim of keeping land permanently open.
12. Although a larger gap would be created between the side of the proposed dwelling and 7 Beulah Walk, the proposal would be much closer to the eastern boundary of the site and, as noted above, would be wider than the existing dwelling. Land at the rear would be excavated and the existing raised patio would be removed. However, any increased openness there would be counterbalanced by the proposed raising of land at the front of the dwelling to create an enlarged parking area.
13. Even discounting that part of the proposed dwelling that would be built into the slope, the proposal would be more visually prominent than the existing building. It would result in moderate harm to the openness of the Green Belt. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt. The proposal would conflict with the aims of the Framework and would be contrary to Policies DP10 and DP13 of the Local Plan which seek, amongst other things, to protect the Green Belt.

Ecology

14. Parts of the site, including the existing dwelling itself, and the adjacent mature trees would appear capable of providing suitable habitat for protected species, specifically bats. Therefore, the potential for protected species being present cannot be ruled out. The results of a daytime bat survey have been submitted with the appeal. The internal and external inspections of the existing dwelling and outbuildings found no evidence of bats. The buildings were deemed to have negligible potential to support roosting bats, although it is noted in the survey that the property has reasonable connectivity to good bat foraging/commuting and potential roosting habitat.
15. The bat survey accompanied the previous planning application for a replacement dwelling on the site and it is dated May 2018. The CIEEM guidelines² indicate

¹ Appeal ref APP/M3645/W/20/3249613

² CIEEM Guidelines for Ecological Report Writing (Second Edition, December 2017)

that reports over 3 years old, as is the case here, are unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated. I acknowledge the appellants' point that the ecological survey only became more than 3 years old as a result of the application validation process. However, a precautionary approach is required and it remains the case that I do not have before me an up to date ecological survey of the site, in the absence of which it is not possible for me to determine with any certainty that the proposal would not adversely affect ecological interests, including protected species. Given the passage of time, it is the appellant's responsibility to ensure that their evidence is up to date.

16. Given the degree of uncertainty around the effects of the proposal on ecology, the use of conditions to require a survey to be undertaken would not be reasonable in this case.
17. On this basis, I cannot rule out potentially significant harm to ecology, including protected species. The proposal would fail to comply with Policy CSP17 of the Tandridge District Core Strategy (2008) and Policy DP19 of the Local Plan, which, amongst other things, seek to ensure that development proposals protect biodiversity, avoiding harm to protected species.

Other considerations

18. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
19. The appellants argue that the existing dwelling and outbuildings compromise the character of Woldingham Garden Village and that the proposal would contribute to the character of the area in accordance with the Framework. Despite being in a dilapidated condition, the existing dwelling sits comfortably within the plot and is in keeping with its surroundings. As one of the former army huts, the existing building reflects the character and history of Woldingham Garden Village. I accept that the site would be tidied up by the development. However, in this respect any enhancement to the character and appearance of the area would be very modest. I therefore give this matter limited weight in favour of the appeal scheme.
20. A Certificate of Lawfulness³ has been granted for single storey extensions to the property. Whilst the footprint of the existing property would be significantly increased as a result of these additions, they would be modest in height and less obtrusive than the appeal proposal. Aside from a building regulations drawing which appears to indicate a larger rear extension than was shown on the drawings for the Certificate of Lawfulness, I have little evidence before me to indicate that there is a realistic prospect of the extensions being constructed if the appeal is dismissed. Accordingly, I give this fallback position limited weight in favour of the appeal scheme.
21. In relation to the replacement dwelling at 5 Beulah Walk⁴, the Council concluded that the development would result in a modest increase in volume compared to the original dwelling. On that basis, the Council found that the proposal would

³ Council ref TA/2017/647

⁴ Council ref TA/2016/2401

not constitute inappropriate development and anticipated no significant harm to the openness of the Green Belt. The replacement dwelling had a lower ridge and was set further back into the site than the building it replaced. I have found that the appeal scheme would be inappropriate development in the Green Belt and it would be both spatially and visually harmful to Green Belt openness.

Consequently, the development at No 5 does not provide a compelling precedent for allowing the appeal scheme. The planning history and substantive details of the development at No 7 have not been provided and so I cannot be sure that it represents a direct parallel to the appeal proposal. In any event, I have considered the appeal on its own merits based on the specific site circumstances.

22. The development would offer social and economic benefits in terms of providing a new high quality dwelling together with the creation of employment opportunities during the construction phase. Given the scale of the development, the weight attributable to these matters is limited. The appellants state that the proposal, which includes a green roof, would provide an opportunity to enhance biodiversity on the site. However, it has not been demonstrated that the proposal would not adversely affect ecological interests, including protected species.

Conclusion

23. In conclusion, I have found that the proposal would harm Green Belt openness and it would be inappropriate development in the Green Belt. It has not been demonstrated that the proposal would not result in potential harm to ecological interests, including protected species. I have given only limited weight to the other considerations in favour of the proposal, and conclude that, taken together, they do not clearly outweigh the harm that the proposal would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
24. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR