
Appeal Decision

Site visit made on 8 August 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2022

Appeal A Ref: APP/Z3635/W/21/3284482

12 Thames Meadow, Shepperton TW17 8LT

- 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 Robert Frater against the decision of Spelthorne Borough Council.
 - The application Ref 21/01065/FUL, dated 28 June 2021, was refused by notice dated 20 August 2021.
 - The development proposed is replacement dwelling following demolition of the existing house and annex.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have also dealt with another appeal (Ref APP/Z3635/D/22/3290184) on this site. That appeal is the subject of a separate decision.

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 with respect to flood risk; 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 relates to a detached bungalow situated in a ribbon of residential properties within a defined Plotland Area on Thames Meadow. The appeal property features a shallow pitched roof with a flat roof extension to the side. The property is set back a short distance from the road with a private rear garden which is bound by the River Thames. A detached annex occupies part of the rear garden. The immediate area is characterised by large dwellings within

spacious plots facing towards a large meadow. The site is within the Green Belt.

5. Saved Policy GB1 of the Spelthorne Borough Local Plan 2001 'Saved' Policies and Proposals – March 2008 (LP) stipulates that the Green Belt shown on the Proposals Map will be permanent and within it development will not be permitted which would conflict with the purposes of the Green Belt and maintaining its openness. Subject to the above, development will not be permitted except for the uses appropriate to the Green Belt, comprising amongst other things, the limited extension, alteration or replacement of existing dwellings.
6. Saved Policy GB1 of the LP is broadly consistent with paragraph 149 of the Framework, which states that the construction of new buildings should be regarded as inappropriate in the Green Belt, with some exceptions. One of the exceptions is listed at Framework paragraph 149 d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
7. Policy EN2 of the Spelthorne Core Strategy and Policies Development Plan Document (2009) (CS) allows for the rebuilding and extension of dwellings in the Green Belt where the proposal would not significantly change the scale of the original building, regardless of the size of the plot; would not detract from the character of the area; and would comply with Policy EN1 on the design of new development. CS Policy EN2 is not fully consistent with the Framework which reduces the weight that I attach to it.
8. The proposed replacement dwelling would be a chalet style bungalow which would occupy the footprint of the existing dwelling. The proposal would be set off the ground to create flood voids and its ridge height would be 5.7m, a considerable increase on the existing dwelling. In addition to that height increase, the Council's calculations indicate that the proposed development would represent a sizeable increase in terms of both footprint and volume compared to the existing building.
9. The appellant's calculations suggest that there would be no increase in footprint, a 3.5% decrease in gross floor area, a 58% increase in volume and a 2.1m increase in ridge height. However, those calculations take into account the existing annex within the curtilage of the property.
10. 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. The significant increase in height to enable the provision of first floor accommodation and substantially greater volume clearly indicate that the proposal would be materially larger than the existing modest dwelling.
11. The appellant claims that the proposal would consolidate built form on the site by removing the annex and providing greater spacing to No 13. The existing rear annex to be removed is a small structure which, owing to its modest proportions and unobtrusive siting, has little effect on the openness of the Green Belt. Even were I to include that building alongside the existing dwelling in assessing any increase in footprint, floor area and volume, the increased scale and massing of the proposed dwelling compared to the original building mean that it would inevitably appear as a materially larger building. The submitted plans indicate greater spacing to No 11 but any increased openness

there would be counterbalanced by the increased scale and massing of the new dwelling.

12. I have no reason to disagree with the appellant's assessment that the proposal would be reflective of the scale and height of its immediate neighbours at Nos 11 and 13. Notwithstanding this, for the above reasons I conclude that the proposal 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 Policy GB1 of the LP and Policy EN2 of the CS, albeit the weight attributable to the latter is limited. The resultant harm should be given substantial weight in determining the appeal.

Openness

13. The Framework states that the essential characteristics of Green Belts are their openness and permanence. Openness has both spatial and visual aspects.
14. I have found above that the proposed building would be materially larger than the existing building. The proposed development would be clearly visible from views along Thames Meadow and partially visible from the public footpath on the eastern bank of the River Thames and from Walton Lane. The increased scale and massing of the proposed dwelling would result in a loss of spatial and visual openness. The proposal would be more visually prominent than the existing development and would conflict with the fundamental aim of keeping land permanently open.

Flood risk

15. The submitted Flood Risk Assessment (FRA) states that the site is located within Flood Zone 3a and therefore has a high probability of flooding. The evidence indicates that the site has historically flooded. A dwelling is categorised in the "more vulnerable" category in the Planning Practice Guidance.
16. The ground level at the location of the existing house is 10.40m above ordnance datum (AOD). The existing finished floor level of the house is 10.63m AOD and it does currently not include any flood voids. The proposed dwelling would be supported by a series of piles and concrete walls which would enable the provision of a void underneath the building. The finished floor level of the proposed dwelling would be raised to 11.10m AOD which would be some 0.15m above the 1 in 100 year water level. However, taking climate change into account the appellant's FRA confirms that the design flood level for the site is the 1 in 100 year (+35%) water level. The proposed finished floor level would be around 0.4m below the Environment Agency's modelled water levels for the 1 in 100 year (+35%) event. That suggests the proposal would be likely to be affected by flooding in the future.
17. The FRA suggests safe access and egress routes. However, the flooding to the area around the dwelling would restrict opportunities for safe and dry escape. Future occupants could implement a flood evacuation plan, register for flood warnings from the Environment Agency, use sealant around external doors and windows, and locate electrical services above flood levels. However, the proposal does not include safe, suitable and appropriate flood prevention and

mitigation measures as part of its design to ensure that the development is flood resilient for its lifetime.

18. I accept that the proposal would provide a betterment compared to the existing situation in terms of flood risk. The provision of the void under the whole footprint of the proposal with a permeable surface beneath would also improve flood storage capacity compared to the existing dwelling thereby reducing the risk of flooding elsewhere. However, based on the evidence before me, I am not satisfied that occupiers of the proposed development would be safe from flooding.
19. The use of a planning condition to ensure that the finished floor level of the building would be set at a sufficient height above ground level would not be appropriate as this would be likely to alter the overall height of the building, which would not then accord with the submitted plans.
20. For these reasons I conclude that the proposal would have a harmful effect with respect to flood risk. The proposal would conflict with Policy LO1 of the CS which aims to reduce flood risk and its adverse effects on people and property. The proposal would also conflict with the Framework which, amongst other things, seeks to ensure that development in areas at risk of flooding is appropriately flood resistant and resilient for its lifetime.

Other considerations

21. 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.
22. Two prior approvals for larger home extensions to the rear of the existing dwelling have been granted¹. The largest of these would extend 8m beyond the rear wall of the original dwelling. Whilst the footprint of the existing property would be significantly increased as a result of such an addition, it would be modest in height and less obtrusive than the appeal proposal. Moreover, the approved plans for the 8m rear extension that have been presented to me do not appear to indicate the requisite flood voids. Therefore, I have little evidence before me to indicate that there is greater than a theoretical possibility of the approved extensions being constructed if the appeal is dismissed. Accordingly, I give this fallback position limited weight in favour of the appeal scheme.
23. The appellant has referred to a number of other permissions which have been granted for replacement dwellings nearby. The submitted details suggest that the replacement dwelling at 5 Thames Meadow provided a more modest increase in footprint on the original building compared to the appeal proposal. The planning history and substantive details of the other developments referred to have not been provided and so I cannot be sure that they represent 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.
24. Planning permission has previously been granted for the demolition of the existing property and erection of a replacement bungalow which incorporated

¹ Council ref 21/00002/PDH and 21/00787/PDH

accommodation within the roof space². The approved plans indicate that the height of the replacement dwelling would have been same as the current proposal. However, its footprint would have been notably smaller than the appeal proposal. I give this matter limited weight.

25. 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.
26. There is some support for the proposal from third parties. However, I have found the proposal to be harmful and therefore the weight of support is not a determinative matter in favour of the proposal.
27. Compliance with policies in respect of matters such as the living conditions of neighbours and future occupiers of the development, would be neutral matters in the planning balance.

Other Matters

28. I have had regard to the comments made by the interested party that access to the proposal would not meet the requirements of Part M of the Building Regulations. However, as I am dismissing the appeal for the reasons given above, I have not pursued this matter further.

Planning Balance and Conclusion

29. In conclusion, I have found that the proposal would harm Green Belt openness and it would be inappropriate development in the Green Belt. The proposal would have a harmful effect with respect to flood risk. 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.
30. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR

² Council ref 02/0413/FUL