



Appeal Decision

Site visit made on 10 January 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2023

Appeal Ref: APP/P0240/W/22/3299105

Pathways, 8 Dene Close, Aspley Guise MK17 8NL

- 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 Verwoert against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/05596/FULL, dated 16 December 2021, was refused by notice dated 11 March 2022.
 - The development proposed is demolition of an existing dwelling and its replacement with a new build two storey dwelling, with a basement and associated garage, gym, study pod, landscaping and alteration to the shared driveway.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site address in the header is from the application form. It is slightly different to that provided on the appeal form but it adequately describes the location of the site. Also, it is used by the Council on its decision notice.

Main Issues

3. The main issues are:-
 - whether the replacement dwelling would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the development on the openness of the Green Belt;
 - its effect on the character and appearance of the area; and
 - if the replacement dwelling would be inappropriate development, whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development in the Green Belt

4. The appeal site lies in a designated area of Green Belt. Policy SP4 of the Central Bedfordshire Local Plan 2021 (the LP) is not mentioned in the Council's refusal reasons but it is referred to in its submissions. It is clearly relevant as it

states that proposals within the Green Belt will be assessed in accordance with government guidance contained in the Framework.

5. Paragraph 149 of the Framework states that the construction of new buildings is inappropriate development in the Green Belt. However, a list of exceptions is set out and this includes at 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. The proposed dwelling would be in the same use as the house to be demolished. As such, its construction would not be inappropriate development unless it is materially larger than the existing building.
6. The current dwelling has accommodation at ground and first floor levels. The upper storey is in the pitched roof space and served by small dormer windows. The appellants contend that the building has a gross external area (GEA) of 310.5m² including the space at first floor level. Also, I am advised that it has a total volume of 780m³. I have no reason to dispute these figures.
7. The proposed dwelling would be 2 storeys high with a flat roof. Also, it would have a basement and an attached garage/cycle store building. Detached gym and study pod buildings would be in the garden. The table at paragraph 5.11 of the appellants' appeal statement indicates that the proposed development including the outbuildings would have a GEA of 376m² and a total volume of 1229.6m³. These figures do not include for the basement, which the appellants state would have a floor area of 96m². Again, there is no reason to dispute these figures.
8. Neither the Framework nor the LP defines the term "not materially larger". However, it is clear that paragraph 149 d) of the Framework requires the size of the proposed building to be compared against the size of the existing. The appellant suggests that any such comparison should ignore the basement as it would not be visible and so it would have no impact on the openness of the Green Belt. Reference is made to pre-application advice from the Council in support of this view. However, the test to be applied simply requires a comparison of the sizes of the existing and proposed buildings and not whether the proposal would have a greater impact on openness. As such, I find no sound reason to omit the basement when deciding whether the proposed building would be materially larger than the existing.
9. I am referred to section 7 of the Central Bedfordshire Design Guide (the DG) and specifically paragraphs under a heading "extensions to dwellings within the Green Belt". On this issue, the DG provides a guiding principle that the original building should not be added to by more than 60% to be considered as proportionate. Also, it states that the impact of the extension in terms of floorspace, volume, massing and design will be considered. The Council contends that this guidance only relates to extensions but there is a note that the same approach will be used for replacement buildings in the Green Belt. As such, the DG guidance is relevant in my assessment.
10. Having regard to the aforementioned figures, the appellants contend that the proposed development would lead to a 21.3% increase in building GEA and a 57.6% increase in volume when compared against the existing dwelling. However, these figures do not take account of the basement.
11. When the basement is included, the appellants say the proposal would lead to a 52% increase in floor area and so still within the DG's 60% guidance.

However, no percentage figure is provided in terms of volume increase when the basement is taken into account. The appellants accept the volume would increase by 57.6% when the basement is omitted and the basement would be sizeable. As such, it seems to me that the volume of the proposed dwelling would be more than 60% larger than the existing house when including the basement. Therefore, the proposal would not accord with the DG's guidance when comparing the volumes of the existing and proposed buildings.

12. The appellants also highlight that when the garage, gym and study buildings are omitted the GEA of the proposed development would be less than the existing building. However, it would be inappropriate to disregard the size of these buildings in any assessment as they would be seen as forming part of the proposed dwelling. Also, there is no case made that these elements would not be inappropriate development in the Green Belt when considered in isolation.
13. I am referred to a replacement dwelling development at 2 Cowslip Crescent, which was granted planning permission by the Council. The information before me on this development fails to include a comparison of the existing building's volume compared to the size of the proposed house. As such, it is uncertain whether this other scheme is similar to the appeal development. Therefore, this planning permission fails to influence my views on this main issue.
14. The proposed house would be of a comparable height to the existing dwelling. However, for the reasons given above, I find that the proposed development would be materially larger than the existing building, particularly in light of the provisions of the DG and having regard to the increase in total building volume. Therefore, the replacement house would not accord with paragraph 149 d) of the Framework. No case is made that the dwelling would comply with any of the other exceptions as set out at paragraph 149. As such, I conclude the proposed buildings would be inappropriate development in the Green Belt.
15. The main parties make no comment on whether the proposed landscaping works and alterations to the driveway would be inappropriate development in the Green Belt. Paragraph 150 of the Framework defines engineering operations as not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The landscaping and works to the drive would accord with these provisos and so these elements of the scheme would not be inappropriate development. However, this does not alter my conclusion on the proposed buildings.

Openness

16. The proposal would lead to a loss of spatial openness as a result of the greater volume of the proposed buildings compared to the existing house. This would be most noticeable in terms of the bulk of the building at first floor level as the upper floor of the proposed house would have vertical walls compared to the pitched roof of the existing. Also, to a degree the garage, gym and study buildings would increase the extent of the building footprint across the site.
17. The basement would be underground and so it would not impact at all on the visual openness of the plot. Also, in general terms the proposed dwelling would have similar proportions to the existing. Open space would continue to exist to the front, side and rear of the site and trees and a hedge to the front boundary would be retained. The proposed house would be seen from the road but its visual impact on the openness of the plot would be similar to the current

situation. In overall terms, I find the development would result in only a modest level of harm to the openness of the Green Belt.

Character and appearance

18. The appeal property lies near the entrance of Dene Close off Aspley Hill. The surrounding properties are largely residences although a band room building lies to the front and side of the appeal site. There is no obvious pattern in the positioning and design of buildings in the immediate area. Even so, from my observations most of the main buildings have pitched roofs, albeit some with dormers. Windows of a traditional style and size are also common.
19. The roof and upper floor of the current house is easily seen from Aspley Hill over the front hedge and through the spaces between the tree trunks on the roadside boundary of the site. The dwelling is set well above the height of the road and so it is easily seen when looking into Dene Close. However, the property is set back from Aspley Hill and so its visibility from along the road is limited. Moreover, I envisage the trees would provide a degree of screening when they are in leaf. The existing house is of a style and appearance typical of dwellings from the 1960's and so it fits in comfortably with the surrounding development.
20. The replacement dwelling would be of a contemporary design. It would have an unusual, angled layout with its ground floor external walls not fully aligned with those at first floor level so as to create overhangs. It would have a flat roof and large, floor to ceiling height windows in part.
21. The proposed dwelling's visibility would be similar to the existing house and so the front of its upper floor would be seen from the road, particularly during times of leaf fall. Its sizeable flat roof would be an alien feature amongst the pitched roofs in the locality. Also, the fenestration across a large part of the front elevation would be at odds with the more traditional style of windows that are prevalent in the area. In these respects, the form and appearance of the proposed house would not reinforce local distinctiveness.
22. The dwelling would be of comparable height to the existing house and the neighbouring property at 7 Dene Close. Also, it would be reasonable to attach a planning condition to ensure the use of appropriate external materials. However, these acceptable aspects would not address nor override the marked incongruity of its form and style. Accordingly, the development would not integrate positively.
23. The appellants contend the proposal would add variety and visual interest to the area by reason of its unusual design. However, LP policy HQ1 looks to ensure the appearance of development relates well to its surroundings and reinforces local distinctiveness. Moreover, the Framework says that development should be sympathetic to local character, while not preventing appropriate innovation. In this case, the existing dwelling fits in with the general character of the area while its replacement would be strikingly different in appearance. The architecture of the proposed dwelling would not be of such a high quality to justify its incongruity. As such, I find the proposal would not raise the visual qualities of the area as claimed.
24. I note that dwellings of a contemporary design exist in Aspley Guise and elsewhere. However, none of these are near to the appeal site and so they fail

to influence the nature of the immediate development context. As such, the examples cited by the appellants do not affect my views on this issue.

25. I am advised that planning permission was granted in 2008 for alterations to Holly Lodge which adjoins the appeal site. The approved works would have radically changed the building so that it would have obtained a modern appearance. However, this development has not been implemented and the permission has now lapsed. As such, this previous decision attracts little weight in my assessment, particularly as Holly Lodge as it stands is of a traditional style and appearance.
26. The proposed gym and study buildings would be single storey and so hidden from public views to a large degree by the proposed house and vegetation to the front. As such, they would not significantly affect the street scene. The acceptability of these elements does not overcome the detriment caused by the proposed house as identified above.
27. For these reasons, I conclude the development would cause harm to the character and appearance of the area. In these respects, it would not accord with LP policy HQ1 and the aim to ensure developments respond positively to their context.

Other considerations

28. The Council's objections do not refer to the proposed landscaping or alterations to the driveway. I find no reasons why these elements of the scheme would be unacceptable. This is a neutral factor in my assessment rather than a benefit to which I attach positive weight.
29. The appellants indicate that Council officers provided positive advice about the proposed development prior to the submission of the planning application and before the Council's final decision. Also, I note no interested parties raised objections to the development at the application stage. However, it does not follow that the scheme would accord with the development plan or the Framework. Therefore, such factors fail to influence my overall conclusions.
30. The appellants indicate that the existing dwelling is not energy efficient and poorly insulated. It is suggested that the proposed development would lead to an enhancement in these regards. This benefit attracts limited weight as there is no substantive evidence to show the appeal development is the only option in achieving any improvements.
31. The appellants have provided a plan that shows the footprint of extensions to the rear and side of the existing property which it is claimed could be erected under permitted development rights (PDRs). It is suggested that the construction of such extensions would represent a fallback should this appeal be dismissed. The Council contends that there is no clear intention to exercise PDRs to extend the property but there is no dispute that PDRs exist. Therefore, the extension of the existing dwelling would be a theoretical possibility if the appeal is dismissed. Such additions would reduce the openness of the site.
32. The appellants suggest that a condition could be imposed if the appeal is allowed so as to remove permitted development rights. Advice in the planning

practice guidance suggests that such conditions may not be reasonable¹, although I note that the Council has suggested the imposition of such a condition if the appeal is allowed.

33. Any condition removing permitted development rights would only come into effect once planning permission is implemented. In the absence of a planning obligation to the effect that the appellants would forego PDRs, new extensions or outbuildings could be erected at the appeal property under PDRs prior to the commencement of the proposed development. Such a factor reduces the weight I attach to the benefit of granting planning permission subject to a condition that removes PDRs.
34. Moreover, the plan provided indicates only additions to the side and rear of the appeal property, which are unlikely to be visible from the public highway. As such, I am unconvinced from the information provided that any development allowed under PDRs would have a worse effect on visual openness and on the character and appearance of the area than the appeal development. This also reduces the weight I attach to the fallback position. Even so, I attach moderate positive weight in my assessment to the fact that PDRs would allow extensions to the existing property and that there is a likelihood that these would be exercised if the appeal is dismissed.

Green Belt balance

35. The appeal scheme would represent inappropriate development which by definition is harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances only exist where the harm by reason of any inappropriateness and any other harm is clearly outweighed by other considerations.
36. In carrying out the balancing exercise, the Framework dictates that substantial weight is to be given to any harm caused to the Green Belt. As well as harm by reason of inappropriateness, the development would cause modest harm to openness, thereby adversely impacting on one of the essential characteristics of the Green Belt. Also, I have found the proposal would be harmful to the character and appearance of the area. This attracts just moderate weight in my assessment as the development's visual effects would be fairly localised.
37. Other considerations add support for allowing the development. However, these do not clearly outweigh the totality of the harm the development would cause in terms of its inappropriateness, to openness and to the character and appearance of the area. Consequently, the very special circumstances necessary to justify the development do not exist and so it would conflict with the Framework. Accordingly, the development also would not accord with LP policy SP4.

Conclusion

38. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR

¹ Planning practice guidance, Use of planning conditions, paragraph: 017, reference ID: 21a-017-20190723, revision date 23.07.2019