



Appeal Decision

Site visit made on 18 April 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2023

Appeal Ref: APP/M3645/W/21/3285150

Nantucket, Lake View, Dormans Park, Surrey RH19 2LR

- 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 Edward Beale against the decision of Tandridge District Council.
 - The application Ref TA/2021/402, dated 10 March 2021, was refused by notice dated 4 May 2021.
 - The development proposed is 'demolition of remaining footprint of dwelling. Erection of detached energy-plus dwelling'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether or not the proposal would be inappropriate development in the Green Belt;
 - ii) the effect of the proposal on the openness of the Green Belt;
 - iii) the effect of the proposal on the character and appearance of the area; and
 - iv) if the development would be inappropriate, 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

Inappropriate Development

3. The appeal site is within the Green Belt. The National Planning Policy Framework ('the Framework') outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt, although some exceptions are specified. These include 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 Tandridge Local Plan Part 2: Detailed Policies 2014 ('the LPP2') similarly indicates that the construction of new buildings will generally be regarded as inappropriate in the Green Belt, but that exceptions include the replacement of buildings subject to requirements including that the new building is in the same use and not materially larger than the building it is replacing.

4. The site includes the partial remains of a dwelling which the evidence before me indicates was damaged by fire some years ago. Planning permission for a replacement dwelling on the site was granted under application ref 2016/1353 ('the Previous Permission'). However, both main parties indicate that the Previous Permission has lapsed. It is not therefore the building that the development would replace in assessing whether the proposal would comprise an exception to inappropriate development, and I have instead considered the development against the former dwelling.
5. In doing so, neither the Framework nor the LPP2 define what constitutes 'materially larger', and though the Council has referred to a general 'rule of thumb' of 15%, I have not been directed to any adopted guidance on this point. The appellant indicates that the volume of the ground and first-floor levels of the proposed dwelling would be around 14% greater than the volume of the former dwelling. However, only part of the volume of the former dwelling now remains on the site. Moreover, the dwelling would additionally have a fairly large basement level with glazing served by lightwells and a set of external access steps. These elements would give a clear indication of the presence of the basement level beneath the floors above, and I cannot therefore agree with the suggestion in the Design and Access Statement that it would not have a material effect on the visual bulk of the building.
6. The appellant indicates that the lightwells and external staircase to the basement could be removed from the design, but no revised plans to show this are before me. While I acknowledge the nature of the rooms indicated within the basement, I consider the suggested changes to the development would be material and could still raise fresh considerations requiring assessment. I am not therefore satisfied that it would be appropriate to secure revised plans to omit the lightwells and external staircase by way of a planning condition.
7. Furthermore, land levels across the site vary, with a general increase away from the boundary with Lake View and clear changes in the vicinity of the former dwelling which appears to have had stepped floor levels and an adjacent flight of external steps up to higher ground at the rear. The 'Basement floorplan and cross section' drawing includes a note stating that all areas are below ground level, and a partial section detail. However, there is nothing to indicate where on the development the partial section detail sits. While 3 of the submitted elevations illustrate differences in land levels, these are each at a single point around the proposed dwelling and the differences shown are relatively modest. The development as applied for does not refer to or clearly detail proposals for alterations to the existing land levels on the site, and with no topographic survey or full existing and proposed sections through the site and development before me, the basis for the ground levels indicated on the elevations is somewhat unclear.
8. Given my observations at my visit of the existing variation in land levels, I have concerns that the exterior of the basement structure could be more visible in some areas on the site than is suggested by the elevation drawings without changes to ground levels which could in themselves have some effect on the Green Belt. In the absence of substantive information in respect of levels, I consider that there is insufficient detail to demonstrate robustly how the building would truly sit within the site and to establish with confidence that the basement would be fully below ground as the appellant asserts.

9. Even if I were content that removal of the lightwells and external staircase could appropriately be secured by way of a planning condition, I am not therefore satisfied that I have adequate grounds to be able to conclude that the structure of the basement would not be appreciable externally. I have not been directed to policy or guidance specifically addressing basement development in the Green Belt that would be applicable to the appeal. Nevertheless, I consider for the reasons above that the basement could in this case add to the impression of the overall bulk and mass of the building with a consequent tangible effect on the Green Belt. I therefore find that it should be included in the assessment of whether the proposed dwelling would be materially larger than the building to be replaced.
10. The appellant has not provided an alternative calculation to dispute the Council's assessment which indicates that the volume of the dwelling including the basement would be around 68% greater than the volume of the former dwelling. This would be a substantial uplift, and even leaving aside the fact that the volume of the former dwelling is no longer fully intact, I find that the replacement dwelling could not reasonably be considered anything other than materially larger than the one that it would replace. The proposal would therefore comprise inappropriate development in the Green Belt which the Framework and Policy DP10 of the LPP2 outline is, by definition, harmful to the Green Belt.

Openness of the Green Belt

11. The Framework identifies that the essential characteristics of Green Belts are their openness and permanence. With regard to openness, the Planning Practice Guidance makes it clear that this is capable of having both spatial and visual aspects¹.
12. The appellant argues that there would be no harm to the openness of the Green Belt in comparison to the Previous Permission development, but this development is not currently present so as to provide the existing baseline against which effects of the proposal on openness should be assessed. That does not mean that the Previous Permission is of no relevance, but it is something which should be more properly considered in the context of other considerations and I return to this matter below.
13. In comparison to the modest external scale and height above existing ground levels of the visible remains of the former dwelling, the proposed dwelling would be significantly and noticeably larger, including in views from Lake View. This would lead to a pronounced reduction in the openness of the Green Belt in both spatial and visual terms relative to the existing situation.
14. In addition, I have already found that the dwelling would have a volume over 60% larger than the former dwelling prior to the fire, leading to some inevitable reduction of openness in spatial terms. The appellant indicates that the development would be around 0.5m lower than the former dwelling, and that it would result in a reduced width of development across the site. However, I have very limited detail of the former dwelling and garage as they existed prior to the fire and damage and no plans or images of them. As a consequence, I can make no detailed comparison of the physical presence of the buildings taking into account factors such as their relative bulk and mass

¹ Paragraph: 001 Reference ID: 64-001-20190722

which would be likely to influence their effect on openness. That said, I note that the appellant's evidence includes a previous appeal decision² which refers to the former building as having had a fairly low profile within the landscape and a very shallow roof form. From the information before me, I am therefore unable to determine that the reductions highlighted by the appellant would be sufficient to offset the increased volume of the dwelling so that the effect of the development on openness would not be increased overall in either spatial or visual terms.

15. I accept that potential for views of the basement to the dwelling from outside of the site would be very limited. Even where there may be views of it from within the site, these would only be partial and I find that the basement would in itself have a very minor visual impact on openness. In addition, the proposed site plan does not show existing outbuildings on the site remaining. Given the limited visibility of these structures from outside of the site, removal would offer modest improvement to the visual dimension of openness, but there would nevertheless be some spatial improvement. I also saw that the pool and retaining wall shown to the rear of the proposed dwelling are existing features on the site, and these elements would not therefore cause a loss of openness as part of the proposal.
16. However, while the appellant states that it is intended to remove some existing hardstanding, the area of visible hardstanding that was easily discernible on the site at the time of my visit was fairly limited, and the submitted plans do not clearly illustrate the extent of any reduction in existing/former hardstanding. In addition, the site plan includes an annotation of 'Solar PV' to the rear of the dwelling and a note indicating that there would be 25 panels on the retaining wall. There are no clear plans to plainly show the scale and extent of the panels and how they would appear on the site. In the absence of this information, the extent of any loss of openness arising from this element of the proposal is uncertain.
17. Weighing all of these factors and taking an overall view balancing the potential areas of improvements to openness against potential areas of greater impact, I am not persuaded from the evidence before me that there would be no harm to the openness of the Green Belt relative to the former dwelling. There would also be a significant reduction in the openness of Green Belt relative to the existing situation. The resulting harm to one of the essential characteristics of Green Belt would be in addition to the harm caused by reason of inappropriateness.

Character and Appearance

18. The flat roof design of the proposed dwelling would be unusual, but I observed significant variety in the form and appearance of individual buildings in the surrounding area and it would not be exceptional. Details of the external materials of the dwelling which have not currently been specified could also be secured by a planning condition.
19. Nevertheless, the roof would be stepped in height, and the dwelling would have an irregular footprint with sections of varying width, depth and height that would overlap to differing degrees, as well as projecting balconies and solar canopies. There would also be notable variety in the height and proportions of

² Appeal ref APP/M3645/A/12/2171583

the glazing to the building, and the glazing in some cases would be on differing vertical and horizontal alignments. In my view, these factors would combine to give the building an awkward and disordered appearance with multipart sections that would lack cohesion and that would not sit comfortably together. Despite this complexity, the lack of any significant architectural detailing would further result in a rather bland appearance that would contrast with the other buildings that I saw nearby. It would not therefore comprise high quality design, and the form and flat roof would also exacerbate the impression of the building's bulk.

20. The appellant comments that the development would be the same width, height and style as the Previous Permission development which also proposed a dwelling with different flat roof levels. However, the details before me indicate that the design of the Previous Permission dwelling included a more consistent approach to fenestration, and a simpler overall form with less variation in the scale and arrangement of different sections and storeys of the building. In my view, it would have a more coherent appearance than would be the case here, and the use of contrasting materials and detailing would provide for visual interest. It does not therefore offer compelling justification for the development before me.
21. Despite the condition of the remains of the former dwelling, the limited height and scale of the structure and its significant set back from the street reduces its visual impact and it is not overly obtrusive. The visual improvement deriving from its removal would therefore be limited, and while I acknowledge that the site is somewhat overgrown in parts despite the appellant's efforts, this is not to a degree that it is overly conspicuous or of significant detriment to the character or appearance of the area.
22. In contrast, the proposed development would be visible including from Lake View, and I find for the reasons above that it would be an incongruous and discordant feature in the street scene that would fail to assimilate well with its surroundings. As a consequence, I conclude that there would be unacceptable harm to the character and appearance of the area resulting in conflict with Policy CSP18 of the Core Strategy 2008 ('the CS') and Policy DP7 of the LPP2. These policies include requirements broadly for high quality design and development that reflects and respects character, setting and local context and integrates effectively with its surroundings.

Other Considerations

23. The proposal is for an 'energy-plus' building. The Energy and Renewable Technologies Statement submitted with the application highlights use of technologies including solar photovoltaic, solar thermal, an earth energy bank to provide thermal storage and energy storage and electric vehicle charging, as well as rainwater harvesting. It suggests that the dwelling would have a negative carbon footprint, even if built to the minimum Passivhaus standard, and the appellant advises at appeal stage that there would be a 138% reduction in carbon dioxide emissions in comparison to a dwelling built to Building Regulation requirements. There is little firm detail to demonstrate how the use and combination of technologies would be experimental or exceptional. Nevertheless, I give significant weight to the potential resulting environmental benefit, albeit that the small scale of the development means that even the long-term benefit would be fairly small.

24. As a habitable dwelling, the development would also contribute to the available housing stock in the area. This is an important benefit, but the contribution would similarly be limited by the small scale of the development.
25. The appellant has suggested potential for new planting on the site, and estimates that it should be possible to plant between 250 and 500 new trees as well as hedgerows that could support wildlife. They also indicate that part of the site would be returned to woodland. However, no firm details have been provided of planting or ecological enhancements to demonstrate the extent of any potential benefits which limits the weight that I can afford to these factors.
26. I note reference by the appellant to vandalism and anti-social behaviour, but I have not been provided with firm details and there is little to demonstrate that it is a significant issue, nor that any issue could not be resolved in the absence of the appeal development. I have also already identified that the existing site does not detract significantly from the character and appearance of the area and so the visual benefit of removing the remains of the former dwelling would be modest.
27. Notwithstanding my findings in relation to the basement, the dwelling now proposed would have a slightly smaller volume at ground and first-floor levels than the dwelling approved under the Previous Permission. The Previous Permission development also included a detached garage which would increase the total volume of built form on the site above that now proposed. Be that as it may, the information before me indicates that the Previous Permission is no longer extant. It was also approved some time ago, and I cannot be certain that permission for development of essentially the same nature would be granted now. Furthermore, there are fairly significant differences between the Previous Permission and appeal scheme, including in respect of the layout and the form of the accommodation which would not provide, for example, the swimming pool and gym. There is no firm detail before me to suggest that there is a realistic prospect that development of that form would be pursued if the appeal failed. These factors limit the weight that I afford to the Previous Permission as a potential fallback.
28. In any event, the appeal proposal would cause significant harm to the character and appearance of the area which I consider would not occur under the Previous Permission. Even if I were to accept the Previous Permission as a realistic fallback position weighing in favour of the proposal sufficiently to outweigh the harm that I have found would be caused to the Green Belt, either alone or with other considerations, it would not outweigh or justify the harm in this respect.

Other Matters

29. I note the appellant's view of the use and implications of Green Belt policy which they consider to be vague and ambiguous, and comments in respect of a lack of clarity by the Council around its approach to basement development. The appellant also advises that the proposal is unlikely to be a profitable venture. However, neither these factors nor the lack of objections from interested parties are matters that alter my assessment of the planning merits of the proposal. Similarly, the appellant's dissatisfaction with the Council's assessment of previous planning applications and the pre application advice given is a matter for the parties, and is not for me to address as part of this appeal.

30. The appellant indicates that they would be happy to discuss the aesthetics and details of the scheme with the Council, but I am required to determine the appeal on the basis of the scheme and evidence that is before me.

Planning Balance and Conclusion

31. The Framework advises that inappropriate development should not be approved except in very special circumstances. It continues that substantial weight should be given to any harm to the Green Belt and that '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.
32. The proposal would cause harm to the openness of the Green Belt, and would cause harm by virtue of inappropriateness. I afford substantial weight to these harms in accordance with the Framework. There would additionally be significant harm to the character and appearance of the area.
33. Against these harms, the proposal would offer some benefits. However, the extent of these benefits would be relatively modest, and the Previous Permission does not weigh significantly in favour of the proposal taken as a whole given that it is no longer extant and that the impacts of the appeal proposal are not comparable on matters of character and appearance.
34. Even taken together, I find overall that the other considerations in this case do not clearly outweigh the harm that I have identified so as to amount to the very special circumstances necessary to justify the development in the Green Belt. The proposal would therefore conflict with the Framework, and it would be contrary to Policy CSP18 of the CS and Policies DP7, DP10 and DP13 of the LPP2.
35. The proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR