The Planning Inspectorate

Appeal Decision

Site visit made on 16 February 2023

by Chris Preston BA(Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeal Ref: APP/G2245/D/21/3288913
Tyro, St. Clere Hill Road, West Kingsdown, Kent TN15 6AH

- 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 T King against the decision of Sevenoaks District Council.
- The application Ref 21/02753/HOUSE, dated 16 August 2021, was refused by notice dated 08 December 2021.
- The development proposed is the erection of a triple garage and attached car port.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   i) Whether the proposal would represent inappropriate development within the Green Belt;

   ii) The effect of the proposal on ancient woodland; and

   iii) If the proposal does amount to inappropriate development within the Green Belt, whether the harm arising in that respect, and any other harm, is clearly outweighed by other considerations such as to amount to the very special circumstances needed to justify a grant of planning permission.

Reasons

Whether Inappropriate Development

3. The appeal site is located within the Green Belt where new development is strictly controlled in accordance with national and local planning policy. Paragraph 149 of the National Planning Policy Framework identifies that new buildings should be considered as inappropriate development unless they fall within a limited number of exceptions. There is no specific exception for curtilage outbuildings but it is established practice to consider such buildings as extensions to the dwelling itself under paragraph 149(c), particularly where the use is clearly ancillary to the dwelling and the building is intimately related in position, as it would be in this instance.

4. Policies GB1 and GB3 of the Sevenoaks Allocations and Development Management Plan (2015) (the SADMP) follow a similar approach. Where new garden buildings would be more than 5m from the dwellinghouse, as would be

the case in this instance, policy GB3 states that they will be permitted where the building, including the cumulative effect of other outbuildings and extensions would be ancillary to the main dwelling in terms of function and design and would not materially harm the openness of the Green Belt.

5. The Council's Development in the Green Belt Supplementary Planning Document (2015) (the SPD) provides further guidance in respect of how garden buildings will be considered. Whilst that is guidance rather than formal policy, it has been adopted by the Council and nothing has been provided to suggest that the content is inconsistent with the Framework. Accordingly, it is a clear material consideration when considering the appeal.

6. The SPD states that the Council will seek to limit the footprint of any outbuildings to 40 square metres in order to minimise the impact on the openness of the Green Belt. In this case, the building would be significantly above that, with a footprint of 75.68sqm according to the figures provided by the Council. It would sit close to the dwelling and would extend the built form into currently open space adjacent to the dwelling on account of its footprint, height and overall volume. Having regard to adopted local and national planning policy and guidance the building would represent a disproportionate addition to the existing dwelling.

7. The application is predicated on the demolition of a number of existing outbuildings including an open sided shed, a generator shed, dog kennels and a climbing frame. However, from the information before me, the lawfulness of some of those outbuildings is unclear. A Planning Statement relating to application 19/03339/FUL (for a replacement dwelling) has been provided with the appellant's appeal documents. That statement notes that enforcement notices served in the 1980s required the demolition of numerous outbuildings on site and that "*they have now all been demolished with the exception of Building 3 – the electricity generator cupboard."* Thus, it is not clear from that statement if the generator cupboard is still covered by an enforcement notice.

8. Moreover, paragraph 2.11 of the Planning Statement notes that; "*A condition was attached to permission 17//02970 which took away the residential permitted development rights and recent buildings that have been erected are therefore unauthorised and need to be regularised – these include a children's play frame and kennel building that replaced building 7 that was to be retain [sic] but subsequently demolished*".

9. From the description of development, the planning permission granted for the replacement dwelling appears to have included the retention of the play frame and dog kennels but it is not clear what the status of the two sheds currently put forward for demolition is and/ or whether they are presently unauthorised. If they are unauthorised it would not be correct to attach positive weight to their demolition as a mitigating factor that would off-set the impact of the appeal proposal. Consequently, in the absence of sufficient information about those existing structures I attach little weight to the suggested benefit of their demolition and am not satisfied that the structure can legitimately be considered as a replacement building under the terms of paragraph 149(d) of the Framework.

10. In any event, those structures are spread out across a wide area of the site within the cleared area of woodland. That dispersal reduces the apparent

visual impact in terms of the openness of the site in my view. In contrast, the proposed building would be situated close to the dwelling and would be markedly taller than the existing outbuildings. Therefore, even if I were to take account of their demolition, the proposed building would have a greater impact on openness when compared to the existing situation, contrary to the objectives of policy GB3 of the SADMP.

11. Overall, for the reasons given the proposed structure would be substantial in terms of its footprint and volume and significantly larger than that considered acceptable within the adopted SPD. It would represent a disproportionate addition over the size of the original dwellinghouse and would reduce the openness of the Green Belt in visual and spatial terms. Having regard to the above the proposal does not comply with the aims of policy GB3 of the SADMP, the SPD and does not meet any of the exceptions listed at paragraph 149 of the Framework. As such it would amount to inappropriate development within the Green Belt.

Ancient Woodland

12. The dwelling at the appeal site sits within a clearing surrounded by woodland. There are no trees directly on the area covered by the proposed structure but woodland is situated closely to the north.

13. The parties dispute whether the proposal is located within Ancient Woodland. The appellant considers that the site was essentially removed from the woodland when permission was granted for the replacement dwelling under application 19/03339. No documentation to support that assertion has been provided. I have not been provided with a plan that identifies a defined boundary of the Ancient Woodland; it may be that such a plan does not exist but that an assessment would be required based on the exact nature of the woodland in any given area. The whole of Knockmill Wood is covered by a group Tree Preservation Order and the Council maintains that the eastern and southern parts of that area comprise Ancient Woodland, including the area of the appeal site.

14. Regardless of whether the site itself is within Ancient Woodland it is clear that such woodland is situated very close to the boundary of the site. Consequently, the potential impact upon the Ancient Woodland is a material consideration on account of the location of the proposal, regardless of any dispute over a specific boundary.

15. Paragraph 180(c) of the Framework identifies that Ancient Woodland is an irreplaceable habitat and that planning permission should not be granted for development that may lead to the loss or deterioration of that habitat unless there are exceptional reasons. In the context of that clear guidance and the importance of Ancient Woodland it seems appropriate to apply a precautionary principle.

16. Whilst the appellant maintains that there would be little impact no arboricultural or other appropriate ecological survey has been provided. Reference has been made to two Oak trees close to the site with a suggestion that one needs to be removed due to its dangerous condition and the other being more than 15m from the proposal. The Council's tree officer does not

appear to object to the removal of the closest oak tree but in the absence of any survey work or even an accurate plan showing the trees in relation to the proposal it is hard to see how those conclusions have been drawn.

17. Moreover, whether removal of a decaying tree is the best approach within an Ancient Woodland is unclear given the absence of any report from a suitably qualified professional. Decay and recycling is no doubt part of the cycle of life within such woodlands and an alternative approach of siting development away from damaged or decaying trees may be beneficial to the overall habitat. Without further information of the condition of the tree and what the most appropriate course of action is in terms of ecological impacts it is difficult to draw any definitive conclusion.

18. Consequently, in the face of very limited information, I am not satisfied that the proposal would have not have a harmful impact on Ancient Woodland or protected trees as suggested by the appellant. Accordingly, applying a precautionary principle the potential harm to the habitat of the Ancient Woodland is a matter that weighs against the grant of planning permission having regard to the aims of policy SP11 of the SADMP, which seeks to protect the biodiversity of the district, and paragraph 180 of the Framework.

Other Material Considerations

19. In terms of its outward appearance the building would be well-designed and would integrate well with the character of the existing dwelling and the rural character of the area. However, given the location within the Kent Downs Area of Outstanding Natural Beauty, any proposal would be required to pay special regard to the scenic beauty and landscape character of the area, as required by local and national planning policy. Thus, the absence of harm does not amount to a positive factor in support of the scheme.

20. There may be some benefit from the removal of the existing delipidated outbuildings on the site but the lawfulness of those outbuildings is unclear for the reasons given. Moreover, it is not uncommon for some vehicles to be stored in the open in domestic and rural settings and the fact that may continue is not a matter that gives much weight to arguments in favour of the scheme.

Whether Very Special Circumstances Exist

21. Paragraph 147 of the Framework identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 requires me to attach substantial weight to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, is clearly outweighed by other considerations.

22. For the reasons given I attach substantial weight to the Green Belt on account of the inappropriate nature of the development and the reduction in openness. I also attach significant weight to the potential harm to Ancient Woodland, given the importance of such habitat and the lack of information presented. In contrast, the other matters put forward in favour of the proposal carry very limited weight and do not clearly outweigh the harm identified.

23. Therefore, the very special circumstances needed to justify the proposal do not exist.

Conclusion

24. For the reasons set out the proposal conflicts with the relevant policies of the development plan with regard to development within the Green Belt and biodiversity. There are no material considerations to indicate that a decision should be taken other than in accordance with the development plan or to indicate that very special circumstances exist to outweigh the harm to the Green Belt and other harm identified.

25. It follows that the appeal should be dismissed.

Chris Preston

INSPECTOR