



Appeal Decision

Site visit made on 1 August 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2023

Appeal Ref: APP/G2245/D/22/3311964

Oakfield Farm, Main Road, Edenbridge, Kent TN8 6SP

- 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 Adam Skinner against the decision of Sevenoaks District Council.
 - The application Ref 22/02279/HOUSE, dated 17 August 2022, was refused by notice dated 1 November 2022.
 - The development proposed is described as 'Demolition of existing out-building and erection of new out-building along with new boundary fence'.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing out-building and erection of new out-building along with new boundary fence at Oakfield Farm, Main Road, Edenbridge, Kent TN8 6SP in accordance with the terms of the application, Ref 22/02279/HOUSE, dated 17 August 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan drawing no PL002 Rev B
 - Existing Site Plans and Elevations, drawing no PL003 Rev A
 - Proposed Site Plan and Fence Elevation, drawing no PL004 Rev A
 - Proposed Ground Floor, Roof Plan and Elevations, drawing no PL005
 - 2) Prior to the first use of the outbuilding hereby permitted, details shall be submitted to and approved by the local planning authority of the proposed external materials. The outbuilding shall not be used for domestic storage or any other purpose incidental to the use of the dwelling until the external walls and roof have been constructed in accordance with the approved details.

Application for costs

2. An application for costs was made by the appellant against Sevenoaks District Council. This application is the subject of a separate decision.

Preliminary Matters

3. In the banner heading above I have used the description which appeared on the Council's decision notice and on the appeal form. The planning application form provided the same description, but part of the final word 'fence' was missing. Since the fence is included on the submitted drawings and the

appellant's Statement of Case confirms that it is part of the proposed development, I have determined the appeal on that basis.

4. The outbuilding has been partially erected and therefore I am considering this element of the appeal retrospectively. At the time of my site visit, I established that the siting and scale of the part-erected outbuilding appear to correspond with the application drawings. However, the external cladding, doors and fenestration were incomplete and the building was not in use. In addition, the metal sheeting roof did not match the detailing of the proposed roof materials as indicated on drawing number PL005. For the avoidance of doubt, I have considered the proposal based on the details shown on the proposed drawings.
5. An alternative plan was provided with the appeal (drawing no PL005 Rev A). This indicates the effect of reducing the height of the outbuilding to 4 metres. This is the maximum height permitted under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The alternative plan was not before the Council when it determined the planning application and interested parties would not have the opportunity to comment. Therefore, there is a risk of prejudice to the Council and interested parties if this plan is treated as forming part of the proposal at this stage. In accordance with the Wheatcroft principles, I have considered the appeal based on the drawings considered by the Council when it determined the application. I have, however, addressed the implications of permitted development rights granted by the GPDO in the reasoning which follows.

Main Issues

6. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies,
 - the effect on the openness of the Green Belt,
 - the effect on the character and appearance of the area, and
 - if the proposal is inappropriate, whether any 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 required to justify the proposal.

Reasons

Inappropriate Development

7. The appeal site is situated in the Green Belt. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt. It goes on to set out a number of exceptions, which include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaced (paragraph 149d).
8. Policy GB3 of the Sevenoaks District Council Allocations and Development Management Plan 2015 (ADMP) allows for outbuildings located more than 5 metres from an existing dwelling, provided the building would be ancillary to

the dwelling in terms of function and design and would not materially harm the openness of the Green Belt through excessive bulk or visual intrusion. However, there is no similar provision in the Framework for detached outbuildings, other than those which are treated as extensions under paragraph 149c. Therefore, while Policy GB3 is relevant in terms of the proposal's effect on openness, I have considered the principle of whether the proposal is inappropriate development against the provisions of Framework paragraph 149d.

9. The application includes evidence that the part-completed outbuilding is a direct replacement for previous outbuildings used for similar purposes and in a similar position. The fact that the previous outbuildings have now been demolished does not prevent paragraph 149d from being applicable, given that replacement of any building will inevitably involve demolition of its predecessor.
10. The accuracy of the application drawings is disputed by an interested party, notably with regard to the floorspace of the previous outbuildings. However, the Officer Report confirms that the drawings have been checked against aerial photographs and historic mapping and that the Council considers the submitted plans to be accurate. I have taken the drawings of the previous buildings into account, while also keeping in mind that they were in a dilapidated state and of a different design and character. I have also noted that there are several other outbuildings within the garden which are not shown on the drawings.
11. Even if the new outbuilding has a comparable floor area to its predecessors, the drawings confirm that it has a significantly greater height. Whereas the previous outbuildings had a low, largely flat, roof, the proposed building has a pitched roof rising to a ridge. By virtue of the pitched roof and increased overall height, I find that the building is materially larger than the outbuildings which it replaced. Therefore, based on the provisions of Framework paragraph 149d, I conclude that it would be inappropriate development in the Green Belt.
12. Section 336 of the Town and Country Planning Act 1990 provides a broad description of the term 'building', which includes any structure or erection. As such, structures such as fences are generally treated as buildings for planning purposes. In this case, the proposed fence would be of considerable length, making it a significant structure in its own right. Since the Framework makes no specific provision for fences within paragraph 149, I conclude that the proposed fence would also be inappropriate development in the Green Belt.

Openness

13. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Therefore, the proposal's relationship with the dwelling and other established outbuildings, and the extent of any public visibility, are relevant and inter-related considerations.
14. The existing dwelling has a very large garden, including areas used for growing food as well as more formally landscaped areas. Although the outbuilding is some distance from the dwelling, it is well related to the productive areas of the garden and its intended use for storage and hobby uses would be ancillary to that of the main dwelling. The other outbuildings also appear to be in a variety of uses closely related to the dwelling and garden. The appellants have identified particular items which require indoor storage and there is no

substantive evidence to suggest that the intended use of the building is inaccurately described.

15. Within this established residential context, where there was a previous outbuilding and where there are still a variety of other outbuildings and domestic structures, the effect of the replacement outbuilding on openness is limited in spatial terms. In addition, the outbuilding is located well behind the dwelling, where it is not visible from the road or any other public viewpoints identified to me. Although it is somewhat conspicuous from the neighbouring garden, this is a private view. As such, the effect on the openness of the Green Belt is very limited in visual terms.
16. Although the proposed boundary fence would have a significant length, it would be within a relatively enclosed area, behind the existing garage and along the boundary between two adjacent gardens. There are already vertical features marking the boundary, in the form of a chain link fence and a variety of boundary planting. There are also existing, established, outbuildings in both the adjacent gardens, which have a greater effect on openness. The fence would not be visible from public viewpoints. As such, its effect on openness would be very limited, in both spatial and visual terms.
17. I conclude that the outbuilding would cause some limited harm to openness in spatial terms, but there would be only very limited harm in visual terms. The harm to openness in spatial terms would conflict with Policy GB3 of the ADMP, since this policy requires amongst other things that residential outbuildings should not materially harm the openness of the Green Belt through excessive bulk. However, the proposal would not conflict with other aspects of Policy GB3 which relate to visual intrusion or the cumulative impact of outbuildings and their ancillary function or design.
18. While I have noted that the Development in the Green Belt SPD¹ says the Council will seek to restrict outbuildings to a limit of 40sqm, this limit is not included in Policy GB3 itself. Nor is any such restriction clearly justified in this particular case, given that the outbuilding would replace a previous structure and has only limited effect on openness. I have therefore given this aspect of the SPD limited weight.

Character and Appearance

19. The appeal site is one of a handful of large, detached dwellings in mature gardens along the road leading out of Edenbridge. The outbuilding and fence would be located in the rear garden, set well back from the road, behind the existing dwelling. The garden as a whole is extensively landscaped with mature trees, hedges and other planting which screen the rear garden from general public view.
20. The outbuilding would not be visible from the road and no other public views have been brought to my attention. Based on the details shown on the proposed drawings, it would be constructed in external materials appropriate to a rural area, including the timber frame which has already been erected and horizontal timber cladding to the walls. The proposed roof materials are ambiguous but could be clarified and approved by means of a suitable condition. Although the outbuilding is of relatively substantial scale, its design

¹ Sevenoaks District Council Development in the Green Belt Supplementary Planning Document 2015

and appearance would nevertheless be consistent with that of an ancillary domestic building serving a large dwelling in a rural area.

21. There is an existing close boarded timber fence along part of the site boundary, next to the dwelling and in front of the existing garage. I also noted other examples of timber close boarded boundary fencing around large gardens in the vicinity of the site. The additional length of fencing would be along an established boundary between two rear gardens and would not be exposed to public view. As such, the increased boundary fencing would both respond to existing boundary treatments and avoid any harmful effect on the wider character and appearance of the area.
22. For the above reasons, I conclude that neither the outbuilding nor the proposed fence are harmful to the character and appearance of the area. As such, the proposal does not conflict with Policy EN1 of the ADMP, Policy SP1 of the Core Strategy² or with relevant paragraphs in the Framework. These policies, amongst other things, require that development proposals respond to the character of the area in which they are situated.

Other Considerations

23. The outbuilding is conspicuous from the rear garden of the adjacent dwelling. Boundary vegetation is more limited along this part of the boundary, so there is limited screening at present. The proposed fence would provide some additional screening at ground level, but would in itself be somewhat conspicuous. However, both the proposed fence and the outbuilding are some distance from the neighbouring dwelling and are visible from only part of the extensive neighbouring garden. Neither would be so prominent or intrusive as to have an unacceptably overbearing or intrusive visual impact. The Council did not identify any material harm to living conditions for the occupiers of the neighbouring property and, having visited both the appeal site and the neighbouring garden, I have reached the same view.
24. My attention has been drawn by the appellant to the provisions of the GPDO, which defines classes of permitted development which can be undertaken without express planning permission. In particular, it has been put to me that Schedule 2, Part 1, Class E allows for the erection of outbuildings within the curtilage of a dwellinghouse, subject to certain limitations. The most relevant limitations in this case are that such outbuildings should be no more than 4 metres high, where the roof is dual pitched, and should not be within 2 metres of the boundary.
25. I have been presented with no evidence of any restrictions on exercise of permitted development rights at the appeal site. Nor have I been presented with any evidence that the height limit of 4 metres for purpose of Class E is not applicable in this location.
26. The outbuilding is approximately 2 metres from the site boundary. There is no dispute that its overall height exceeds 4 metres and therefore it is not permitted development. Although the parties do not agree as to its exact external height, the maximum dimension given is 4205mm. On that basis, the outbuilding would be no more than 205mm taller than a similar building erected as permitted development.

² Sevenoaks District Council Local Development Framework Core Strategy Development Plan Document adopted February 2011

27. Given that the building is part completed, there is no doubt of the appellant's genuine intention to implement the proposed development. Nor is there any evidence that a similar building of 4 metres in height would be difficult to construct or would fail to cater for the intended domestic storage and hobby uses. Therefore, there is a real prospect of a very similar outbuilding being erected as permitted development under Class E, as an alternative to the appeal proposal.
28. An alternative outbuilding of up to 4 metres height would clearly have a slightly lower roof. However, the differential of up to 205mm would not fundamentally change its overall bulk or appearance compared to the building which has been partly erected. Consequently, the effect on the openness of the Green Belt would be much the same. I have accordingly given this fallback position very substantial weight in the Green Belt balance below.
29. It has furthermore been put to me that Schedule 2, Part 2, Class A of the GPDO allows for the erection of fences and other means of enclosure as permitted development and that the proposed boundary fence in this case would comply with the limitations in that Class, being no more than 2 metres in height. Again, I have been presented with no evidence to the contrary. There is a realistic prospect that a close boarded fence would be erected under permitted development rights, given that there is already similar fencing along the boundary. Therefore, I have also given this aspect of the fallback position very substantial weight.

Green Belt Balance

30. The outbuilding and proposed fence would be inappropriate development in the Green Belt which would, by definition, be harmful. I have furthermore found that there would be harm to openness, albeit such harm is limited in the case of the outbuilding and very limited in the case of the proposed fence. The harm to openness is contrary to Policy GB3 of the ADMP.
31. The Framework requires that substantial weight 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. Apart from the Green Belt harm summarised above, I have not found any other harm associated with the proposal. There is furthermore persuasive evidence of a fallback position comprising erection of a very similar outbuilding and fence under permitted development rights. The effect of the fallback position on the openness of the Green Belt would be substantially the same. I have therefore given the fallback position very substantial weight.
33. On that basis, in my view, in this case, the other considerations are sufficient to outweigh the substantial weight that I have given to the Green Belt harm by reason of inappropriateness and the effect on openness. As such, I conclude that there are very special circumstances which justify the development in this case.

Conditions

34. The Council has suggested three conditions that it considers would be appropriate were I minded to allow the appeal. The standard time condition is not required, since the development in question has already commenced.

However, I have imposed a condition requiring compliance with the approved plans, to provide certainty.

35. A condition requiring that external materials match the existing building is not appropriate, given that the outbuilding would be a standalone structure. However, only partial details of the proposed external materials have been provided with the application and, as noted above, the roofing materials which I observed on site differ from the detailing indicated on the proposed elevations and roof plan. Therefore, I have imposed a condition requiring approval of the external materials and implementation of the development in accordance with those details, in the interests of the character and appearance of the area. Both parties have confirmed their agreement to the amended wording of the Council's suggested condition.
36. Notwithstanding comments included in the Officer Report, a condition requiring implementation of tree protection measures is not necessary. The foundations and structural frame of the outbuilding have already been constructed and therefore any further ground disturbance would be very limited. The proposed fence would be within the appellant's land and would not adversely affect any trees or vegetation with public amenity value. Nor is there any substantive evidence that the well-established vegetation on the adjoining land would be adversely affected. Any localised damage to vegetation as a result of the remaining construction works or use of the outbuilding would be a private matter between the parties involved and not within the scope of this appeal.

Conclusion

37. For the reasons given above, I conclude that the appeal should be allowed.

Jane Smith

INSPECTOR