



Appeal Decision

Site visit made on 24 October 2023

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2023

Appeal Ref: APP/K2230/W/22/3309303

Ewhurst, Bowesden Lane, Shorne, Gravesend, Kent DA12 3LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Roy Leaney against the decision of Gravesham Borough Council.
 - The application Ref 20220791, dated 14 July 2022, was refused by notice dated 7 September 2022.
 - The development proposed is demolition of existing self-contained annexe and side porch and erection of a 3 bedroom detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with matters of access and layout to be considered at this stage, and matters of appearance, scale and landscaping to be considered at a later stage. I have determined the appeal on the same basis. The appellant states the plans showing the scale and appearance of the proposed dwelling are for information only and I have treated them as such.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework'); and
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Inappropriateness

4. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt. Paragraph 149 adds that the construction of new buildings should be regarded as inappropriate unless it constitutes one of a number of exceptions. One exception is the replacement of a building providing the new building is in the same use and not materially larger than the one it replaces.

5. The appellant suggests the proposed dwelling would be the same use as the existing annexe. A rental agreement from 2007 has been provided which shows the annexe was rented out for six months, along with a council tax record from financial year 2013 – 2014 which identifies the annexe separately from the main house. However as both these documents are from many years ago, they do not demonstrate the current use of the annexe. There is no reason to doubt that the annexe is capable of being a separate dwelling, as was concluded by the Inspector of the previous appeal¹. Nonetheless it has not been satisfactorily demonstrated that the annex is a separate dwelling.
6. Even if the proposed dwelling could be considered as a replacement for an existing dwelling, it would need to not be materially larger than the existing building to be considered not inappropriate. Whilst scale is a reserved matter, it is reasonable to consider that a three bedroom dwelling would be larger than the existing modest one bedroom unit. Not least because of the two additional bedrooms, but also because the associated sitting room and kitchen would most likely need to be larger than those in the current building to accommodate the greater number of residents. Indeed, the indicative floor plans and elevations support my view. As such, it is highly likely that the proposal would be materially larger than the existing building. The development would therefore not meet this criterion in paragraph 149 of the Framework.
7. Alternatively, the appellant suggests the proposal could comprise the redevelopment of previously developed land, which would be not inappropriate development providing it would not have a greater impact on the openness of the Green Belt than the existing development.
8. It is agreed between the parties that the proposal would be sited on previously developed land. However, as discussed above, it is highly likely that a three bedroom dwelling would be materially larger than a one bedroom dwelling. A materially larger dwelling would naturally have a greater impact on openness spatially by occupying more volume than the existing dwelling. In this case, there would be a visual impact on openness too. Any dwelling in the position identified on the block plan, which shows the layout of the site, would be clearly visible from Bowesden Lane across the front garden of the neighbouring property and above the boundary fence and vegetation. Consequently, the development would fail to meet this criterion of paragraph 149 too.
9. Brief reference is made by the appellant to the development constituting limited infilling in a village. The dwelling would fill a gap between two houses. However, I understand the site is beyond the settlement boundary of Shorne Ridgeway. Also its surroundings, of detached houses in large plots, is distinctly different in character from the more tight knit arrangement of smaller houses along The Ridgeway and Peartree Lane that are within the settlement boundary. The site is therefore not within a village, and my view in this is consistent with the previous Inspector.
10. Overall, the development would not fall into any of the exceptions in paragraph 149 of the Framework. It is therefore inappropriate development.

¹ Ref APP/K2230/W/21/3275442

Other considerations

11. The provision of an additional dwelling to add to the Council's supply at a time when they cannot demonstrate a 5 year supply of housing would be of benefit, but is one to which I assign modest weight given the limited quantum of units proposed.
12. The final design of the dwelling could ensure that the character and appearance of the area is maintained and that no neighbouring occupiers are adversely affected. Also the Council's Highways Development Management Officer raises no objection to the use of the existing access and, from my site visit, there appeared to be ample vehicle manoeuvring space at the front of the appeal site. However all these aspects would be expected of any development and carry neutral weight.
13. The Council state that the site lies within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. In order to mitigate the likely adverse effects on the integrity of the SPA from recreational pressures resulting from the proposal in combination with other projects, the Council require a financial contribution towards mitigation. I understand a payment was made in respect of the previous application which reflected the rates at that time. Although the Council state that payment is now of an insufficient value, I need not consider this issue further. This is because I am dismissing the appeal for other reasons, and any payment would only comprise mitigation of an adverse effect and so is not a positive benefit of the scheme to be taken into account.

Green Belt Balance

14. The development causes harm to the Green Belt, to which, as set out in paragraph 148 of the Framework, significant weight is given. The benefits of the development are set out above and carry modest weight. Therefore these other considerations do not clearly outweigh the harm to the Green Belt. Consequently the very special circumstances necessary to justify the development do not exist.
15. The Council cannot demonstrate a 5 year supply of housing; citing a 3.27 year supply in their officer's report. In such circumstances paragraph 11d of the Framework states that development should be approved unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development. Areas of particular importance include Green Belt. In this appeal, the application of the Framework's Green Belt policies provides a clear reason to refuse the development.

Conclusion

16. For the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

A Owen

INSPECTOR