

Appeal Decision

Site visit made on 5 September 2023 by Thomas Courtney BA(Hons) MA MRTPI

Decision by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2023

Appeal Ref: APP/G2245/D/23/3318080

2 New Street Cottages, New Street Road, Hodsoll Street, Sevenoaks, Kent TN15 7JY

- 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 Lee Kirsch against the decision of Sevenoaks District Council.
 - The application Ref 22/01637/HOUSE, dated 13 June 2022, was refused by notice dated 20 December 2022.
 - The development proposed is the demolition of existing garage and construction of two-storey side extension and porch.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt;
 - If the development would be inappropriate, whether the harm to the Green Belt by way 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 for the Recommendation

Whether inappropriate development

4. The appeal property comprises a two-storey semi-detached dwelling located within the Green Belt. A detached single storey garage and a pair of kennels also lie to the north of the dwelling. Whilst the side boundaries are well-screened with mature vegetation, the front and rear boundaries remain visually open.
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5. Paragraph 149 of the Framework states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. Under exception (c) the extension or alteration of a building would not be inappropriate provided that it does not result in disproportionate additions over and above the size of the original building.
6. The Council states that the proposed extension and the removal of the garage and relocation of the kennels would result in a 63.92% cumulative increase in floorspace over the size of the original dwelling. This would exceed the 50% uplift from the original building allowance as stated in Policy GB1 of the Council's Allocation and Development Management Plan (2015) (ADMP)¹.
7. National guidance on measuring 'proportionality' refers in the Framework to 'size.' This can, in my view, refer to volume, height, external dimensions, footprint, floorspace or visual perception. In this case, the proposed built form and volume of development would result in a demonstrably wider building with significantly greater visual bulk. Whilst the appellant argues that the proposal would only be marginally in excess of the 50% limit, the cumulative increase would be closer to two thirds of the existing floorspace and represents a substantial uplift in size. I therefore find that the scale of the proposed development would be disproportionate.
8. On this basis, the proposal would represent inappropriate development in the Green Belt and would not accord with the exemption outlined at Paragraph 149(c) of the Framework.

Openness

9. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has been identified as being formed of a spatial aspect as well as a visual aspect. The additional bulk and volume as a result of the proposed two storey extension would materially impact on openness in a spatial aspect resulting in some limited harm to the Green Belt.
10. Furthermore, the proposed roofscape and additional volume of development would be easily visible to surrounding occupiers to the north and south as well as from New Street Road and other vantage points in the open countryside to the west. For these reasons, the proposed development would result in an adverse impact on both the spatial and visual openness resulting in limited harm to the Green Belt.
11. Given the above, the proposal would lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment contrary to the Framework. It would also conflict with Policy GB1 of the ADMP which seeks to ensure that the extension of a building in the Green Belt, together with any previous extensions and outbuildings, do not result in disproportionate additions and harm the openness of the Green Belt through excessive scale, bulk or visual intrusion.

Other considerations

12. The Framework highlights that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

¹ Sevenoaks District Council, *Allocations and Development Management Plan – Local Plan*, adopted February 2015.

circumstances, with substantial weight given to any harm to the Green Belt. Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

13. In this regard, the appellant opines that there are a set of fallback positions in accordance with rights provided within the content of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) which are material considerations and amount to Very Special Circumstances. The appellant has submitted drawings of alternative works that could potentially be carried out under permitted development (PD). These include works for, firstly, a loft conversion and dormer, single storey side extension and 3m single storey rear extension and, secondly, works for a loft conversion and dormer, single storey side extension and 6m rear extension under the larger homes scheme. The appellant considers that the PD schemes would have more adverse effects than the proposal.
14. There should be a “real prospect” of a fallback development being implemented. In this regard, there should be a greater than theoretical possibility that the alternative works might take place. The appellant states his intent to pursue the fallback options should permission be refused but argues that the insistence that applicants go through the burdensome process of ‘proving’ PD rights exist through a lawful development certificate (LDC) is flawed. However, it is not the role of the Inspector in this appeal to determine whether an alternative development is lawful in order to decide whether a fallback position exists. This can only be formally determined by an LDC application. In any event, whilst the appellant’s evidence attests to the alternative proposals falling within PD limits, the submitted plans do not clearly state the dimensions of the proposed extensions, and I cannot therefore be certain that they do in fact meet all of the relevant conditions and limitations of the GPDO so as to constitute PD.
15. The appellant refers to the planning history of the adjoining dwelling, 1 New Street Cottages, wherein planning permission was granted² in 2021 for extensions that would have resulted in a cumulative increase of 116%. However, I do not have full particulars of this decision to determine whether it is comparable to the scheme before me, but I note that an LDC had been issued in respect of that property prior to planning permission being sought. This differs from the evidence before me, and therefore this is not a matter attracting significant weight in favour of the proposal, which I have considered on its own merits.
16. Notwithstanding the above, even if the alternative proposals amounted to PD, it is not clear that these schemes would have more adverse effects on the openness of the Green Belt than what is proposed. The single storey side and rear extensions would not result in the same degree of visual bulk and intrusion as the two storey side extension proposed. Furthermore, the dormer loft conversion would not necessarily have a more harmful impact than the proposed side roof extension, as both would add similar volume at high level, but the rear dormer would be potentially less visible from the street scene. For these reasons, I am not persuaded that the fallback options would present an

² Council Ref 21/03660

equivalent or greater degree of harm than the appeal scheme, and therefore I attribute only limited weight to these considerations.

17. The Council did not refuse permission in respect of the effect of the proposal on the character and appearance of the area or neighbours' living conditions. I have no reasons to conclude otherwise, but an absence of harm in these respects means that these are neutral considerations weighing neither for nor against the proposal in the planning balance.

Planning Balance and Overall Conclusion

18. The proposal would cause harm to the Green Belt by way of inappropriateness and limited harm to openness, and substantial weight must be given cumulatively to this harm. The limited weight attributed to the other considerations in this case does not clearly outweigh the substantial harm I have identified. I conclude therefore there are no very special circumstances to justify the development.
19. The proposal would result in conflict with the development plan, taken as a whole. Material considerations in this case, in particular the Framework, do not indicate that permission should nevertheless be forthcoming in spite of this conflict.

Recommendation

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

K Savage

INSPECTOR