



Appeal Decision

Site visit made on 7 November 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/G2245/W/23/3319396

Greengates, Rosemary Lane, Hodsoil Street, Sevenoaks, Kent TN15 7JX

- 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 Paul Leaver against the decision of Sevenoaks District Council.
- The application Ref 22/03178/FUL, dated 15 November 2022, was refused by notice dated 9 January 2023.
- The development proposed is demolition of existing dwelling, garage and outbuildings and the erection of new detached dwelling and garage.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt and the effect of the proposal on the openness of the Green Belt, having regard to any relevant development plan policies and the National Planning Policy Framework (the Framework);
 - the effect of the proposed development on the character and appearance of the area; and,
 - if the proposal is inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations as to amount to the very special circumstances required to justify the development.

Reasons

Inappropriate development

3. The appeal site lies within the Green Belt and consists of a modest sized bungalow, detached garage and two further outbuildings, one of which is used as an annex. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm, and 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.

4. The construction of new buildings is deemed to be inappropriate development within the Green Belt, unless it falls within one of the exceptions set out in paragraphs 149 and 150 of the Framework. Exception 149 c) relates to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Exception 149 d) relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
5. Policy GB4 of the Sevenoaks District Council Allocations and Development Management Plan February 2015 (ADMP) refers to replacement dwellings in the Green Belt. Policy GB4 among other things requires that the total floorspace of the replacement dwelling, together with any retained extensions, alterations and outbuildings would not result in an increase of more than 50% of the "original dwelling". The "original dwelling" is defined as meaning the dwelling as it existed on 1st July 1948. If no dwelling existed on that date, then "original" means the dwelling as first built after 1st July 1948. This definition corresponds with that set out in Annex 2 of the Framework.
6. Policy GB4 of the ADMP is broadly consistent with the Framework and essentially combines paragraphs 149 c) and d). However, the Framework requires that a new building is not materially larger than the one it replaces. This can reasonably be interpreted to include volume, height, external dimensions, footprint, floorspace and visual intrusion. The Framework does not require a comparison to be made in relation to the "original dwelling", nor does it set a 50% threshold. While the Framework is more up to date than the ADMP, the wording in the Framework relating to these exceptions pre-dates the ADMP. I therefore do not find Policy GB4 to be out of date.
7. The proposal seeks to demolish the existing bungalow, garage and outbuildings and provide a new two storey dwelling. The Council calculate the floorspace of the existing dwelling to be 256.47 sqm. The two outbuildings are excluded from this calculation as they are sited over 5 metres away from the dwelling; this approach accords with the recommendations of the Council's Development in the Green Belt Supplementary Planning Document February 2015. The appellant has a Lawful Development Certificate (LDC) for a rear extension and detached games room, which has not been implemented. The floorspace of the LDC scheme is not included in this figure. I turn to this matter later in my decision.
8. The floorspace of the proposed development would be 366.79 sqm, which equates to a 43.01% increase when compared to the floorspace of the existing dwelling. No details of the size of the "original dwelling" have been provided. However, it is clear from the planning history and my site visit that the bungalow has been subject to a number of extensions including, a dormer window, conservatory and single storey extensions. As a result, the increase in volume of the proposed dwelling when compared to the "original dwelling" is likely to be significantly greater. Consequently, the proposed development would fail to comply with Policy GB4 of the ADMP, which requires that the floorspace of a replacement dwelling would not result in an increase of more than 50% when compared to the "original dwelling".
9. I appreciate that the existing outbuildings, which are proposed to be removed, also effect the openness of the Green Belt. Adding the existing outbuildings into the equation, the proposal would result in a small increase in overall

floorspace, but reduction in footprint of 13.86%. Nevertheless, floorspace and footprint are not the only determining factors when considering whether a proposal is materially larger. Furthermore, Policy GB4 of the ADMP requires that the design and volume of a replacement dwelling does not materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion.

10. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The proposal would replace a modest sized bungalow, with a large two storey dwelling. While the proposal would amalgamate built form and reduce the spread of development across the site, it would result in a 146% increase in volume when compared to the existing dwelling and 50.8% increase in volume when compared to the existing dwelling and outbuildings. Although no figures have been provided, the increase in volume would be greater still when compared to the size of the "original dwelling".
11. The proposed dwelling would be taller and have a significantly greater mass at first floor and roof level when compared to the existing development, including the outbuildings. As a result, the proposal would cause a harmful loss of spatial openness to the Green Belt. While the proposed dwelling would be set further back from the highway than the existing dwelling, be partially screened by the existing and proposed planting and slightly smaller in width than the existing built form on site, given its height and bulk/massing at first floor and roof level, it would be materially larger and visually more prominent in the street scene than the existing development.
12. Furthermore, the large gable features and extent of fenestration would draw attention to the first floor, making the proposed dwelling appear visually more prominent in the rural landscape than the existing development. While the proposed dwelling would be sited some distance from the Public Right of Way (PRoW) and partially screened by existing trees and vegetation, given the proposal's size, design, siting and height, it would appear significantly larger and visually more prominent in views from the PRoW than the existing development. Consequently, the proposal would also result in a harmful loss of visual openness of the Green Belt.
13. Policy GB4 also requires that a replacement dwelling adheres to the "original dwelling" curtilage. I note the comments of the Parish Council and third party in respect to the curtilage of the dwelling. While there is no LDC before me in respect of the domestic area for the existing dwelling, based on my findings above, it is not necessary for me to consider this matter further.
14. For the reasons given above, I conclude that the proposed development would be inappropriate development in the Green Belt and would conflict with Policy GB4 of the ADMP. This policy among other things seeks to ensure that replacement dwellings in the Green Belt are of a design and volume that does not materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion and that a replacement dwelling would not result in an increase of more than 50% above the floorspace of the "original" dwelling. The proposal would also fail to accord with paragraph 149 d) of the Framework, which requires that a replacement building is not materially larger than the one it replaces.

Character and appearance

15. The landscape character of the area is rural and verdant. Although houses in the locality vary in terms of their design and appearance, they are typically simple in form and utilise traditional materials. While the existing bungalow has accommodation in the roof, there are no dormers or rooflights on the front roof slope. As a result, it appears as a single storey dwelling when viewed from the front. The existing bungalow is modest in size and its design and materials respect the local vernacular. Consequently, the existing bungalow integrates well with its rural setting.
16. Two storey dwellings are not uncommon in the area and the palette of materials would respect that used on properties in the locality. The proposal seeks to appear as a chalet style bungalow when viewed from the street, with the catslide roof taking its cue from the architecture of adjacent properties. While the fenestration on the front elevation is more traditional in terms of its size and proportions, the rear elevation would be heavily fenestrated in order to take advantage of the picturesque views over the surrounding countryside. Although I noted large-scale fenestration at ground floor level on the rear elevation of a neighbouring property, fenestration of the size and extent proposed is not a common feature in the immediate locality.
17. The rear boundary is enclosed by a post and rail fence, with open views available across the surrounding countryside. The proposed dwelling would be visible from the nearby PRow, whereby reason of its size, massing, design and extent of fenestration would appear as a discordant feature in the rural landscape. The proposal would also appear out of character with other development in the immediate locality.
18. Although the closure of one of the access points and provision of new planting would help to soften the visual impact of the proposed dwelling, it would not fully mitigate the harm arising from the scale and mass of the proposal. Even with the new planting, the proposed dwelling would still appear highly prominent from the public realm and surrounding landscape and appear as a discordant form of development.
19. For the reasons given above, I conclude that the proposed development would have a detrimental impact on the character and appearance of the area. The proposal would conflict with Policy SP1 of the Sevenoaks District Council Core Strategy February 2011 and Policy EN1 of the ADMP. These policies among other things seek to ensure that new development responds to the distinctive local character of the area.

Other considerations

20. The appellant has a LDC to demolish the existing conservatory and utility room and construct a single storey rear extension and separate outbuilding, which represents the fallback scheme. There are real prospects that the fallback scheme could be implemented, which would provide the appellant with the additional space they require. However, it would not achieve all the aims of the appeal proposal in terms of providing an improved internal arrangement and more energy efficient dwelling. I therefore give the LDC scheme moderate weight in my decision.

21. The proposal would result in a 26.2% reduction in floorspace, 42.36% reduction in footprint and 1% reduction in volume when compared to the existing dwelling, including the outbuildings and the LDC scheme. The outbuilding, which forms part of the LDC scheme would be visible from the street and would infill a gap between the bungalow and garage, thus increasing the width of built development across the site. However, the LDC scheme would be single storey in height and not result in additional bulk or massing at first floor and roof level. Furthermore, the extension would be sited to the rear of the dwelling and largely screened from the public realm. As a result, the LDC scheme would not appear unduly prominent from the public realm. Consequently, I find the appeal scheme would result in greater harm to the openness of the Green Belt and the character and appearance of the area than the fallback scheme.
22. The neighbouring property has a garage, with a flat roof, which adjoins the shared boundary of the site. The appellant argues that the existing side projection on the bungalow is of poor design and creates a terracing affect, which reduces the openness of the Green Belt and is harmful to the character and appearance of the area. Given that the pitched roofs of the bungalow and adjacent property are set away from the boundary and that the design and materials differ, I do not find that the bungalow and semi-detached properties are read together or viewed as a terrace from the street. Nevertheless, the proposal would move built form away from this shared boundary, result in a reduction in the width of built form across the site and provide a greater sense of space around the proposed dwelling, which I give moderate weight in favour of the scheme.
23. The proposed dwelling would exceed the current Building Regulations requirement in respect to energy efficiency and would also incorporate renewable energy technologies. This would support the transition to a low carbon future, which weighs in favour of the proposal. The proposal would also provide a lift, which would enable the dwelling to meet the changing needs of its occupants. I afford the environmental and social benefits of the proposal moderate positive weight in my decision.
24. The appellant has drawn my attention to other replacement dwellings in the locality. The replacement dwelling at Ridley Farm is a modern interpretation of a barn and is more in keeping with the agricultural heritage of the locality. It also replaced a two storey dwelling and is therefore not comparable. There is limited evidence before me of the circumstances surrounding the Holywell Farm Barns scheme for me to be able to draw a comparison. While the new development at Holywell Farm Barns contains large gable features, which are heavily fenestrated, this property has also been designed to appear as a modern interpretation of a barn. The replacement dwelling at Bunkers Farm (Oak Tree Barn) appears to be a single storey dwelling and of a different architectural character. Consequently, the above schemes are not comparable.
25. While the Council is unable to demonstrate a five year housing land supply, there would be no net increase in residential units and therefore the proposed self-build dwelling would not contribute to the District's housing supply shortfall.

26. I acknowledge that the appellant would be willing to accept a condition to remove permitted development rights for the new development. However, this would not overcome the harm I have identified above.

Green Belt Balance and Conclusion

27. The proposal would be inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. The proposal would also cause harm to the openness of the Green Belt. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt. In addition, the proposal would cause harm to the character and appearance of the area. Overall, I afford the other considerations advanced in this case moderate weight in favour of the development. Having considered all the material considerations in favour of the development, I conclude that very special circumstances do not exist that clearly outweigh the harm to the Green Belt, by reason of inappropriateness and the other harm resulting from the proposal.
28. The Green Belt is a protected area for the purposes of footnote 7 of the Framework. The proposal would result in harm to the Green Belt. Consequently, the application of policies in the Framework that protect the Green Belt provide a clear reason for refusing the proposed developments in accordance with paragraph 11 d)(i). As such, the presumption in favour of sustainable development does not apply.
29. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR