



Appeal Decision

Site visit made on 22 November 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/M3645/W/23/3316878

The Grange, Bungalow Felcourt Road, Felcourt, Surrey RH19 2LA

- 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 and Mrs Dunn against the decision of Tandridge District Council.
 - The application Ref TA/2022/1048, dated 1 August 2022, was refused by notice dated 22 December 2022.
 - The development proposed is the demolition of existing bungalow and ancillary storage building and construction of a new single-storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the refusal of the planning application but prior to the submission of the appeal, the appellants undertook a Preliminary Ecological Appraisal (PEA) of the site. The PEA recommended some precautionary mitigation and biodiversity enhancement measures but concluded that there would be no harm to any protected species. As a result, the Council is content that its second reason for refusal has been addressed. I have no reason to conclude otherwise and so have not had further regard to this matter in my decision.
3. The lawful use of the outbuilding is not for me to determine as part of this section 78 appeal, it is within the appellants' remit to seek to establish the building's lawful use by applying for a lawful development certificate under the planning acts. Nevertheless, I have had regard to the evidence before me and my own observations at my site visit to consider the use of the building where it is relevant to do so here.

Main Issues

4. The main issues are:
 - a) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - b) the effect of the proposal on the openness of the Green Belt; and
 - c) 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

Whether Inappropriate Development

5. The National Planning Policy Framework (the Framework) advises that in the Green Belt, development should be regarded as inappropriate. Paragraphs 149 and 150 of the Framework do however set out a list of exceptions as to when development in the Green Belt might not be inappropriate. Paragraph 149 (d) allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The main parties have considered the proposal in the light of this exception. It has not been put to me that the proposal would meet any of the other exceptions set out in the Framework for development in the Green Belt.
6. Policies DP10 and DP13 of the 2014 Tandridge Local Plan Part 2 (TLPP2) are broadly consistent with the Framework, in terms of seeking to resist inappropriate development in the Green Belt. I therefore give substantial weight to these aspects of the Policies.
7. Policy DP13 also seeks to ensure that replacement buildings are sited on or close to the building it replaces unless an alternative siting improves the openness of the Green Belt. This goes beyond the Framework policy for assessing whether a replacement building is inappropriate development. However, as the new dwelling would be in a similar position to the existing one, it is not determinative in this case.
8. The main parties disagree on the increase in the amount of built form that will result from the proposal and thus whether or not the new building would be materially larger. Having regard to both the appellants' Design and Access Statement and the Council's officer report, it seems that the difference in the respective square metre figures could in part be a difference between external and internal measurements. This may also have had implications for the respective volume calculations, bearing in mind the roof overhang on the rear of the proposed dwelling and over the new front entrance.
9. In the absence of comprehensive and comparable measurements of the existing and proposed buildings, there is insufficient evidence to enable a robust comparison in terms of all dimensions. However, even if I accepted the appellants' figures, the question of whether or not something is disproportionate is not defined in the Framework and thus it will be a matter of planning judgement which involves more than just mathematical calculations.
10. The proposal would add significantly to the footprint of the existing dwelling. It would also result in a roof which would introduce greater scale and mass of building, thereby visibly increasing the overall bulk in comparison to the existing. The increased scale and massing of the proposed dwelling when compared to the original mean that it would inevitably appear as a materially larger building.
11. For the purposes of paragraph 149 (d) of the Framework, case law has established that a larger single building can replace a group of existing buildings, provided they can sensibly be considered together in comparison with what is proposed to replace them. Therefore, while the outbuilding should not necessarily be excluded from the volume and size calculation simply on the

basis that it is not part of the dwelling, paragraph 149 (d) requires that the new building is in the same use as the one it replaces.

12. The outbuilding has the appearance and characteristics of an old agricultural building, that appears to sit outside of the residential curtilage. It is positioned such that it seems to have a physical and functional relationship with the other nearby agricultural buildings, and fields beyond, rather than with the existing dwelling.
13. At the time of my site visit the outbuilding was being used as a store. Some of the items I saw within it were similar to what one might find within a garden shed or outbuilding. However, there is no indication as to how long it has been used in this way and aside from the appellants' assertions there is only limited evidence that the outbuilding is in the same use as the residential dwellinghouse. I therefore share the Council's reservations as to whether the outbuilding can legitimately be included within the calculation of the existing building.
14. Even if the outbuilding can be considered within the same use as the existing dwelling, the proposal results in a much greater width of built form across the site when compared to the existing situation. Indeed, together with the resulting depth and roof form, the replacement building would clearly appear as a much more substantial form of development and appear materially larger than the existing dwelling and the outbuilding when taken together.
15. As such, the proposal would not comply with the requirements of Paragraph 149 (d) of the Framework. In addition to conflicting with the Framework, the proposal would also be contrary to Policies DP10 and DP13 of the TLPP2 which similarly seek to resist inappropriate development in the Green Belt. The Framework advises that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

16. The Framework states that the essential characteristics of Green Belts are their openness and permanence. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. Putting aside my reservations as to the inclusion of the outbuilding within the calculations of existing building, I have considered the issue of openness in the context of both the existing dwelling and outbuilding being replaced.
17. In this case, even adopting the appellants' figures, the volume of built form would increase above that which currently exists on site by some 21%. The development must evidently, in spatial terms, have a greater impact upon the openness of the Green Belt.
18. With regard to the visual aspect, the existing buildings are each smaller than the collective whole of the proposal and are clearly set apart from one another, which helps to contribute to the openness of the site. In contrast, the resulting built form would appear as a more noticeable and significant structure.
19. The appellants contend that the removal of the outbuilding and having development line up with the existing buildings of the Kingsley Farm/The Grange group, would reduce the encroachment of built form into the openness of the Green Belt. However, to my mind, the consolidation of the development,

in the form proposed, together with the demonstrable reduction in space between the proposed dwelling and the existing farm buildings would accentuate the overall loss of visual openness of the Green Belt.

20. In this instance the effect of the increased built development would clearly be experienced both visually and spatially. For this reason, the proposed development would reduce the openness of the Green Belt. Whilst the loss of openness would be limited and localised, harm to the Green Belt would nevertheless occur. As per paragraph 148 of the Framework, any harm to the Green Belt attracts substantial weight.

Other Considerations

21. The proposal is not said to raise any concerns in relation to a number of matters including the design of the new dwelling, the proposed carbon and energy reduction techniques, highway safety etc. The proposal is also said to comply with the Nationally Described Space Standards. However, these factors would all represent a lack of harm which would accordingly be neutral in any balance.
22. The appellants point to the Parish Council's support for the proposed development. However, this in itself does not mean that the current scheme is acceptable and does not in any event absolve me from making an assessment as to its effects in regard to the main issues of the case.
23. I have had regard to the appeal decisions provided by both parties. That those cases produced contrasting conclusions to the respective increases in volume, serve to demonstrate that each case must be determined on its own merits. Accordingly, I have considered this appeal on its individual merits and with regard to the specific circumstances of the site and its surrounds.

Green Belt and Planning Balance

24. I have found that the proposal would be inappropriate development and therefore by definition harmful to the Green Belt. It would also have an adverse effect on the openness of the Green Belt. The Framework is clear that substantial weight is given to any harm to the Green Belt. Taken together, I find that the other considerations in this case do not clearly outweigh the harm that I have identified.
25. On that basis the very special circumstances needed to justify the proposal have not been demonstrated. As such the proposal is contrary to the requirements of the Framework and to the development plan which seek to protect the Green Belt.
26. The proposal would not accord with the development plan taken as a whole and there are no other material considerations to outweigh this finding.

Conclusion

27. For the reasons given above, and having regard to all other matters raised, the appeal should be dismissed.

Stewart Glassar

INSPECTOR