



Appeal Decision

Site visit made on 7 February 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/G2245/D/23/3324709

Worples Field, Farley Lane, Westerham, Kent TN16 1UB

- 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 Jia Guo against the decision of Sevenoaks District Council.
 - The application Ref 22/03570/FUL, dated 21 December 2022, was refused by notice dated 26 May 2023.
 - The development proposed is the demolition of some outbuildings and removal of post and wire fence. Erection of a greenhouse, chicken coop and rain water storage unit and the remodelling of part of the garden.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of some outbuildings and removal of post and wire fence. Erection of a greenhouse, chicken coop and rain water storage unit and the remodelling of part of the garden at Worples Field, Farley Lane, Westerham, Kent TN16 1UB in accordance with the terms of the application, Ref 22/03570/FUL, subject to the conditions in the schedule below:

Preliminary Matters

2. I have used the description of development in the Council's decision notice and appellant's appeal form as it more succinctly describes that for which permission is sought.
3. From my site visit it was evident that buildings of similar siting, scale and appearance to that for which permission is sought have been erected on site. The remodelling of the garden also appeared to have been largely completed. For the avoidance of doubt, the retrospective nature of the proposal does not have a bearing on my decision, which is made on the basis of the submitted drawings.

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; and
 - b) the effect of the proposal on the openness of the Green Belt.

Reasons

Whether Inappropriate Development

Policy Context

5. The Framework states that other than in the case of specific exceptions, development in the Green Belt should be regarded as inappropriate. The proposal comprises both the remodelling of the garden and new outbuildings. Neither the Council nor the appellant clearly articulate under what part or parts of the Framework the proposal has been considered.
6. Paragraph 155(b) of the Framework allows for engineering operations in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The Council considers the remodelling of the garden to be an engineering operation and does not raise an objection to this aspect of the scheme. Based on the information before me and my own observations on site, I have no reason to disagree with this conclusion.
7. With regard to the buildings, the appellant refers to them as being replacements, which I take to be a reference to the exception in Paragraph 154(d). It seems to me that provided the new buildings are in the same use and replace the previous curtilage buildings, they could reasonably be considered as replacement buildings under paragraph 154(d). The test of whether they would be "materially larger" would then need to be applied.
8. However, the appellant also makes reference to the buildings not being disproportionate. This appears to be a reference to the exception set out in Paragraph 154(c), which allows for the extension or alteration of a building. Provided that the new building would be in the same use, proposals to replace an existing curtilage building can be considered under paragraph 154(c). The test of whether it would be materially larger than the size of the original building would be applied.
9. The appellant also makes reference and appears to draw a comparison between the proposal and the provision of appropriate facilities on allotments, which are referenced in Paragraph 154(b) of the Framework. Whilst the gardens serving the appeal property are large, they are private and do not in my opinion correspond to or have the same character as allotments. Consequently, the proposal would not comply with the exception in Paragraph 154(b) of the Framework.
10. It does not appear to me that either of the main parties has sought to address the proposal on any of the other exceptions in the Framework.

Assessment – Replacement Buildings

11. The framework does not define materially larger and therefore it is a matter of planning judgement. However, the Courts have held that in considering whether a building is materially larger than what it will replace the exercise is primarily an objective one by reference to size. There is nothing in Paragraph 154(d) to indicate that a replacement building should be considered in relation to other surrounding development, as the exception only refers to whether it would be materially larger than the building it replaces.

12. The proposal would have a combined footprint of just over 70m² more than what previously existed, which is over double the previous floorspace figure. I have not been provided with the comparative volumes but the new buildings would generally be wider, deeper and slightly higher. In the case of the greenhouse there would be a noticeably larger roof. As a result, it seems to me that the new buildings would be visibly larger in scale and bulk.
13. For these reasons, I find that collectively the new buildings would be materially larger than the buildings that existed and have since been replaced. Consequently, the proposal would not fall within this exception.

Assessment - Extensions

14. Policy GB3 of the Allocations and Development Management Plan 2015 (ADMP) states that outbuildings within the curtilage of an existing dwelling in the Green Belt, will be treated as an extension under Policy GB1 if they are located within 5m of the existing dwelling. It appears to me that the outbuildings in this case would be over 5m from the dwelling and so the Council did not consider the proposal as an extension.
15. However, the 5m limitation set out in the ADMP is more restrictive than the Framework or case law. Consequently, I sought the views of the Council on the proposed buildings being considered as extensions under Paragraph 154(c). I have taken their views into consideration.
16. An outbuilding does not need to be physically linked to another building to be considered under Paragraph 154(c). It is reasonable to take into account whether the proposal would be a 'normal domestic adjunct'. For this, consideration could be given to the purpose and use of the proposed building, its relationship with the original building and its size.
17. It seems to me that the previous garden buildings could reasonably be considered to have been normal domestic adjuncts to the dwelling. Likewise, the proposed outbuildings would be used for purposes clearly related to the occupation of the dwelling. They would be in the same broad location on the site, relatively close to the dwelling and within a group of buildings closely associated with it. Therefore, I am satisfied that the proposed outbuildings can be considered as extensions to the dwelling.
18. I also noted some other structures on the wider property, but from what I saw these are for occasional use with the garden. Given their nature, distance, and relationship to the dwelling, they did not appear to be normal domestic adjuncts, to be considered as extensions to, or read as, part of the dwelling.
19. Having regard to the planning history of the site, it is apparent that the floorspace of the dwellinghouse itself has previously been extended by some 50%. Policy GB1 of the ADMP seeks to limit increases through extensions to no more than 50% above the floorspace of the "original" dwelling. The proposal before me adds approximately 70m² of floorspace, and I am aware that there are other, existing outbuildings such as the shed and garage which are to be retained and may not have previously been considered as 'extensions'.
20. The Framework does not define 'disproportionate' and it is therefore a matter of planning judgement. Furthermore, 'size', which is the test in the Framework, encompasses more than simply a comparison of floorspace figures. It can reasonably be taken to include such factors as volume, height, external

dimensions, visual perception etc. As the Framework is more up to date than the ADMP, its approach is to be preferred when assessing the issue further.

21. The proposal results in larger outbuildings than those that previously existed. The additional scale and height find particular expression in the greenhouse, although it is positioned and of a scale that remains subservient to the dwelling. Indeed, the heights of the buildings generally decrease the further away they are from the dwelling and in line with the fall of the land. Overall, these additions would not be considered dominant in their size and massing and integrate with the dwelling and site as a whole.
22. The existing extensions do not appear to harm the proportions or dominate the original building. However, I recognise that small additions, which on their own may not be disproportionate, can incrementally result in disproportionate additions over and above the size of the original building.
23. Therefore, as a matter of judgement, I find the scale of the proposed alterations, together with the previous extensions, whilst appearing larger than what previously existed, would not quite tip over into being disproportionate to the size of the original building. Therefore, in this instance these works would not be inappropriate development within the Green Belt.

Conclusion

24. For the reasons set out above, I find that the proposal would not amount to inappropriate development in the Green Belt. Accordingly, it does not conflict with Paragraphs 154(c) and 155(b) of the Framework, the relevant provisions of which I have set out above.

Openness

25. Given that the proposal would not constitute inappropriate development in the Green Belt, the Framework does not direct me to assess the impact of the proposal on the openness of the Green Belt. However, Policy GB3 of the ADMP states permission will be granted for outbuildings located over 5 metres from the existing dwelling where they are ancillary to the main dwelling in terms of function and design and not materially harmful to the openness of the Green Belt through excessive bulk or visual intrusion. The Council acknowledges that there would be no adverse impact on openness from the ground works and I have no reason to disagree with this conclusion.
26. The proposed greenhouse would be a pitched roof and glazed with a brick plinth; however, its size would be commensurate with that of the appeal site and dwelling, which are both considerable. The chicken coop is a much smaller building which has a flat roof and two sides of open mesh.
27. They would be ancillary to the main dwelling, and I am satisfied that their designs reflect their uses when seen as part of the wider appeal site in association with the dwelling. Their siting would not prevent them from functioning and appearing as ancillary to the dwelling.
28. The base of the greenhouse is set down below ground level and is positioned between two retained outbuildings and adjacent to the existing boundary and mature planting. The chicken coop would be positioned discreetly in the corner of the garden. They would be broadly positioned where previous outbuildings stood. The water storage containers and koi pond are relatively small, discreet

structures that do not sit prominently above ground level. The water storage containers are positioned to the rear of the other outbuildings.

29. The wording of Policy GB3 implicitly acknowledges that change can occur without the openness of the Green Belt being materially harmed. Given the buildings and their wider context, I am satisfied that they would not be visually intrusive or represent excessive bulk that would materially harm the openness of the Green Belt.
30. The Council's Supplementary Planning Document: Development in the Green Belt 2015 (SPD) provides guidance that new outbuildings over 5m from a dwelling should not exceed 40m². However, in this instance, there were already buildings over this suggested limit and whilst it provides a useful rule of thumb, the SPD is guidance and not policy. Indeed, having considered the proposal on its own merits I have already concluded that the proposal would satisfy the broader objectives of Policy GB3.

Conditions

31. As the works appear to have been implemented, it is not necessary for me to impose the standard time limit. However, in the interests of certainty a condition that lists the approved plans is necessary.
32. The greenhouse is the principal and most prominent of the buildings within the scheme. However, as the external materials to be used for it are specified on the approved drawings a further condition setting this out is unnecessary.
33. It appears that some ecological losses may have occurred as part of the works associated with the development. It is therefore reasonable and necessary for a scheme of ecological enhancement to be implemented alongside the development.

Conclusion

34. For the reasons set out above and having regard to the Framework and the development plan as a whole as well as all other matters raised, I conclude that the appeal should succeed.

Stewart Glassar

INSPECTOR

Schedule of Conditions:

- 1) The development hereby permitted shall be carried out in accordance with the approved plans listed below:
Site Location Plan
Site Plan as Proposed - WF-A-101 Rev P04
Greenhouse Elevations as Existing (Demolished) - WF-A-201 Rev P03
Greenhouse Elevations as Proposed - WF-A-202 Rev P03
Rabbit Run & Chicken Coop East & West Elevations as Existing (Demolished) - WF-A- 203 Rev P02
Shed (7 sq m) Elevations as Existing (Demolished) - WF-A-204 Rev P02
New Rainwater Storage Proposed Elevations and Sections - WF-A- 205 Rev P01
Chicken Coop Elevations as Proposed - WF-A- 206 Rev P01
Garage Elevations as Existing (Maintained) - WF-A- 207 Rev P02
Storage Shed (next to Garage) Elevations as Existing (Maintained) - WF-A-208 Rev P02
Storage Shed Elevations as Existing (Maintained) - WF-A-209 Rev P02
Greenhouse Sections CC & DD as Existing (Demolished) - WF-A-301 Rev P02
Greenhouse Sections CC & DD Proposed and Overlay - WF-A-302 Rev P02
Sections AA & BB as Existing - WF-A-303 Rev P01
Sections AA & BB as Proposed - WF-A-304 Rev P01
Sections AA & BB Existing & Proposed Overlay - WF-A-305 Rev P01
Fish/Koi Pond Proposed Section - WF-A-306 Rev P01
TOPOGRAPHICAL SURVEY – 22/2729 (Drawing 01)
Sections A & B - 22/2729 (Drawing 03)
Sections C & D – 22/2729 (Drawing 04)
- 2) Within 3 months of the date of this decision, an ecological enhancement scheme (including timetable for implementation) shall be submitted in writing to the local planning authority for approval. The development shall be carried out in accordance with the approved details which shall be retained thereafter.

END