



Appeal Decision

Site visit made on 21 June 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2024

Appeal Ref: APP/M3645/W/23/3332900

Ridgeway, Hollow Lane, Dormansland, Surrey RH7 6NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) ("the Act") against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Mark & Samantha Samson against the decision of Tandridge District Council.
 - The application Ref is TA/2023/839.
 - The development proposed was originally described as a "retrospective application for demolition of existing dwelling and construction of replacement dwelling. Regularisation of works completed to date. Demolition of existing rear extension and replacement with new single storey extension with pitched roof."
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and construction of a replacement dwelling at Ridgeway, Hollow Lane, Dormansland, Surrey RH7 6NR in accordance with the terms of the application, Ref. TA/2023/839, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs Mark & Samantha Samson against the decision of Tandridge District Council and is the subject of a separate decision.

Procedural Matters

3. The description of development used by the Council on its decision notice is different to that stated on the appellants' planning application form. Whichever description is preferred, the proposal before me is for a replacement dwellinghouse. In the interests of brevity, I have used the shorter description from the Council's decision notice with the omission of the superfluous reference to the rear extension. I have also omitted 'retrospective' as this is not an act of development under the Act.
4. Planning permission¹ was granted by the Council for a replacement dwelling at the appeal site. This dwelling is currently at an advanced stage of construction and its main core is substantially identical to the proposed dwelling in this appeal. The differences between them appear to be confined to the scale, form and design of their respective single storey rear wings. Given that the proposed development has effectively commenced, I have assessed the appeal on the basis of the drawings before me.

¹ TA/2023/838

5. The revised National Planning Policy Framework ("the Framework"), was published before the Council's appeal statement was submitted and before the final comments stage of the appeal process. As such, both parties have had the opportunity to consider its relevance to this appeal and they would not be prejudiced by me not seeking their views on it. All references in this decision relate to the revised document.
6. In November 2023, all designated Areas of Outstanding Natural Beauty (AONB) in England became National Landscapes. I have therefore replaced references to AONB with National Landscapes, except where quoted in local planning policy.

Main Issues

7. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework, and its effect on Green Belt openness.
 - The effect of the proposed development on the character and appearance of the area, with particular regard to the High Weald National Landscape ("the HWNL").
 - The effect of the proposed development on the living conditions of the occupiers of Number 54 Beacon Hill (Number 54), with particular regard to outlook and access to light.
 - Whether the proposed development would preserve the setting of Greathed Manor, a Grade II listed Registered Park and Garden ("the GMRPG").
 - If the proposal is inappropriate development, whether the 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 it.

Reasons

Whether inappropriate development

8. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029, Adopted July 2014 ("the TLP"), states that inappropriate development is, by definition, harmful to the Green Belt and will only be permitted where other considerations amount to very special circumstances that clearly outweigh any harm to the Green Belt by reason of inappropriateness, and any other harm.
9. TLP Policy DP13 sets the exceptions to inappropriate development in the Green Belt, which include the replacement of a building that is not materially larger than the building it is replacing. This exception is broadly consistent with Framework Paragraph 154.d).
10. For the purposes of this exception, I have assessed the appeal proposal against the existing dwelling shown on the submitted drawings. This is because the dwelling under construction on the appeal site was not substantially complete at the time of my site visit. Although the evidence suggests that structural issues led to the demolition of the existing building shown on the drawings, I have nonetheless referred to it as the existing building in this decision.

11. Neither the Council's planning policies or the Framework provide a floor space or volumetric percentage figure to quantify what might constitute a 'materially larger' replacement building. As such, it is a matter of applying planning judgement to the circumstances of the appeal before me.
12. Whether a proposed building is materially larger than the building to be replaced is primarily an objective judgement by reference to its size. Floor space, footprint, volume, height and width can all be relevant factors to this judgement, together with the relationship between them in terms of the scale, massing and form of a building. The objective judgement required is therefore more than a purely mathematical exercise of comparing numerical volumes and floor areas.
13. The Council's numerical calculations indicate that the proposed replacement dwelling would be around 23% larger in volumetric terms than the existing dwelling. It is clear from the drawings that the proposed dwelling would have a markedly wider façade across 2.5 storeys with a relatively large forward projecting gable, a lower height rear projecting gable and a single storey wing with a taller hipped roof. The relationship between these elements of the proposed dwelling's form, together with its larger footprint and greater volume, would result in it having a greater bulk and massing than the existing dwelling.
14. Taking account of the factors relevant to an objective assessment of size, the proposed building would be materially larger than the existing building to be replaced. Therefore, it would not meet the exception in TLP Policy DP13 or Framework Paragraph 154.d), and would be inappropriate development in the Green Belt.
15. The essential characteristics of Green Belts are their openness and permanence, and openness can be perceived spatially and visually. The larger footprint and greater volume of the proposed dwelling would inevitably reduce Green Belt openness by occupying land not currently occupied by the existing building, and would evidently increase the visible spread of physical built form across the site when compared to the existing dwelling.
16. This would result in a loss of visual openness in the Green Belt, particularly in views from Hollow Lane. Longer distance views of the proposed dwelling would be limited by a combination of nearby buildings, sizeable trees and dense planting, and the topography of the area, which tends to rise towards the north. Nonetheless, the greater size of the proposed building would cause a harmful loss of Green Belt openness.

Character and appearance, including the HWNL

17. The appeal property is one of several traditional period style dwellings of different designs that are set close to the edge of the narrow Hollow Lane on the southern approach to Dormansland. Set within generously sized plots, often containing sizeable trees and planting, the loose-knit pattern of buildings, together with the narrowness of the road and the woodland opposite, gives this stretch of Hollow Lane a rural and verdant character and appearance.
18. Dormansland, including the appeal site, is embedded within a surrounding undulating landscape comprising open fields interspersed with woodland, creating an essentially rural scene. The appeal site is visually well-contained from this wider landscape by the dense swathe of woodland on the opposite

side of Hollow Lane, and the topography of the area. As such, it is predominantly seen in localised views from Hollow Lane, and amongst the loose-knit row of large dwellings, together with the more suburban dwellings on Beacon Hill.

19. The proposed replacement dwelling would be larger than the existing dwelling, with a wider façade and a large front gable that would be highly visible in localised views from Hollow Lane. However, in terms of its effect on the character and appearance of the area and the surrounding landscape, the visible spread of its built form would be comfortably contained within its relatively spacious plot. A substantial gap between it and the large dwelling to the south would be retained, thus respecting the loose-knit pattern and verdantly rural character and appearance of this part of Hollow Lane.
20. Overall, the scale of the replacement dwelling would be comfortably absorbed within the row of mostly large buildings and would not read as an intrusion of built form into the street scene or into the setting and landscape of the adjacent HWNL, particularly given its strong visual containment by the nearby swathe of woodland.
21. For these reasons, the proposed development would not harm the character and appearance of the area, with particular regard to the adjacent HWNL. It would therefore be consistent with Policies CSP18 and CSP20 of the Tandridge District Core Strategy, Adopted 2008 ("the TDCS") and TLP Policy DP7, insofar as they require development to respect local character and context, including features that contribute to local distinctiveness, and conserve the natural beauty of the AONB, including its setting and views into and out of it.

Living conditions

22. Beyond the side boundary of the appeal site, broadly to the north west, is the nearby dwelling at Number 54, which occupies land elevated well above the appeal site and shares a long common boundary with it. Due to the layout of its plot, the garden of Number 54, is somewhat irregular in shape, comprising of a smaller element with summerhouse, and a larger area of garden to its west.
23. The main core of the proposed dwelling would be offset from the majority of the rear garden and dwelling at Number 54, including its windows, and therefore it would not have a dominant and overbearing effect on the outlook of its occupiers. Furthermore, the scale, siting and design of the main core of the proposed dwelling is substantially the same as the approved dwelling under construction.
24. The single storey wing of the proposed dwelling would extend alongside the common boundary with Number 54, and directly behind the smaller part of its garden which includes the summerhouse. The common boundary is defined along this section by a tall retaining wall with close boarded fencing above, and some small plants. In this position, the proposed rear wing would occupy land at a significantly lower level than the garden of Number 54, and its pitched roof would slope upwards, away from the common boundary. As such, its highest point would be some distance away from the common boundary with Number 54.

25. Consequently, only a modest amount of the proposed rear wing's roof form would rise above the common boundary in views from Number 54, including its smaller area of garden and summerhouse. Seen in these views, the visible extent of the rear wing would not have an overbearing or oppressive effect on the outlook of the occupiers of Number 54, when seen from their property.
26. Given the relationship between the proposed dwelling and Number 54, including the significant differential in land levels and the modest height of the proposed single storey rear wing, I am satisfied on the evidence before me that sufficient daylight and sunlight would continue to reach the garden and windows of Number 54, for long periods of the day. This would be especially so when the sun is highest in the sky from the south given the more or less south facing aspect to Number 54. As such, Number 54 would not suffer a harmful loss of light or overshadowing.
27. Noise and disturbance during construction works would be limited in duration and little different to that associated with completion of the approved dwelling, which is at an advanced stage of construction. As such, it would not justify dismissing the appeal and the Council raised no objection in this regard.
28. The appellants' Renewable Energy Statement commits to installing an air source heat pump system to meet the requirements of TLP Policy CSP14, and details of this would be secured by condition to ensure that it does not result in adverse noise effects to the nearby occupiers.
29. For these reasons, I conclude on this issue that the appeal proposal would not have a harmful effect on the living conditions of the occupiers of Number 54, with particular regard to outlook and access to light. As such, it would be consistent with TDCS Policy CSP18 and TLP Policy DP7, insofar as they require development to not significantly harm the amenities of the occupiers of neighbouring properties by reason of overlooking, overshadowing and visual intrusion.

Listed Park and Garden

30. On the opposite side of the road to the appeal site is the extensive GMRPG, which the evidence suggests was designed as an early twentieth century formal garden, covering some 70 hectares. The GMRPG is a designated heritage asset under the Framework's policies on the historic environment and it is my duty under Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ("the PLBCA Act"), to pay special attention, and have regard to, the desirability of preserving its setting.
31. The significance of the GMRPG appears to be derived in part from the composition of its extensive parkland of fields and dense woodland, along with gardens and pleasure grounds. These are historically associated with the Grade II Listed country house of Greathed Manor, which stands on almost the highest part of the site, giving commanding views of much of the gardens, particularly to the north where there are few trees.
32. Whilst the GMRPG would be principally appreciated from within its grounds, the appeal site is located sufficiently close to its boundary so as to be a part of the verdant and largely rural surroundings in which it can be appreciated. There would also be intervisibility between them, but not with Greathed Manor, which

is located some distance away. Accordingly, the appeal site is located within the setting of the GMRPG, and contributes to its significance.

33. Although the larger built form of the proposed dwelling would be visible with the GMRPG in views from Hollow Lane, and from parts of the GMRPG itself, it would be largely absorbed into the loose-knit row of sizeable dwellings along Hollow Lane. Furthermore, a substantial gap would be retained between it and the large dwelling to the south. For these reasons, it would maintain the characteristically verdant rural character and appearance of this part of Hollow Lane, and its contribution to the setting of the GMRPG would not be diminished.
34. Consequently, I conclude on this issue that the proposal would preserve the setting of the GMRPG, and would not harm its significance as a designated heritage asset. As such, there would be no conflict with Section 66(1) of the PLBCA Act, or TLP Policy DP20, which seeks to ensure that development preserves and wherever possible enhances the historic interest, visual appearance and setting of heritage assets, or the historic environment protection policies of the Framework.

Other considerations

35. Both parties refer to a planning permission² granted by the Council to extend the existing dwelling. However, the evidence suggests that the structural condition of that existing dwelling necessitated its demolition. It is being replaced by the dwelling granted planning permission by the Council, which is at an advance stage of construction on the appeal site. The main core of this dwelling is substantially identical to the appeal proposal and the differences between them are confined to their respective single storey wings.
36. Given the investment in the replacement dwelling under construction on the appeal site, I have no reason to conclude that it would not be completed. It therefore amounts to a clear fallback development on which the effects of the appeal proposal should be assessed. Once substantially complete, it would constitute the existing dwelling on the appeal site for the purposes of the exceptions to inappropriate development in the Green Belt as set out in the Framework and TLP Policy DP13.
37. The rear wing of the proposed replacement dwelling would be longer than that of the fallback development, and with a taller hipped roof. The main parties suggest that it would be in the region of 8.8-9.5 percent larger than the fallback development. Whether a proposed building is materially larger than the building to be replaced is primarily an objective judgement by reference to its size.
38. Floor space, footprint, volume, height, width, and the relationship between them can all be relevant factors to this judgement, dependent upon the circumstances of the particular case. This points away from the objective judgement of materiality being one based purely on a mathematical comparison of numerical volumes and floor areas.
39. Even if I were to use the Council's figures of the appeal proposal's volumetric increase over the fallback scheme, it is clear from the drawings that the additional built form of the appeal proposal would represent a comparatively small increase to the approved footprint of the replacement dwelling. The

² 2021/01553

drawings show that a sizeable proportion of the additional built form of the appeal proposal would be contained on the same footprint as the fallback scheme and within the pitched roof form of the rear wing. This would be considerably lower in height than the main core of the building.

40. The height, depth and width of the proposed rear wing would remain wholly subservient to the main core of the proposed dwelling. Set on lower ground than the dwellings to the northwest, and behind the sizeable main core of the proposed dwelling, the additional built form of this larger rear wing would be largely obscured in views from Hollow Lane. Moreover, it would be absorbed into the massing of the dwelling, which I have found would be consistent with the loose-knit character and appearance of the area.
41. For these reasons, I conclude that the appeal dwelling would not have a materially greater effect on Green Belt openness than the fallback scheme, and taking account of the factors relevant to the judgement of size, it would not amount to a materially larger building. Consequently, the fallback scheme is a consideration of very substantial weight in favour of the appeal proposal, sufficient to outweigh the harms to the Green Belt by reason of inappropriateness and openness.

Other Matters

42. I have been referred to the various planning permissions granted for development on the appeal site, including previous extensions, and comparisons of their volumes and floor areas. However, given my findings above, particularly the fallback development, these are of limited relevance and weight to my considerations.

Conditions

43. The Council has suggested a number of planning conditions in the event of the appeal being allowed. I have considered them in accordance with the tests for imposing conditions set out in the Framework and the Planning Practice Guidance ("the PPG"). Where necessary I have amended the wording of the suggested conditions to ensure compliance with the tests. In the interests of certainty of the planning permission granted, a condition is imposed to specify the approved plans.
44. Given the commonalities between the proposed dwelling and the fallback development, which is at an advanced stage of construction, it is unnecessary to impose the standard time limit condition. Requiring the external surfaces of the proposed dwelling to match those specified on the approved drawings unnecessarily duplicates condition number 1.
45. Landscaping details are necessary to ensure that the development respects the character and appearance of the area. However, I have simplified the requirements of the suggested condition to allow flexibility to the parties in agreeing the necessary components of this.
46. Framework Paragraph 54, and the PPG³ state that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so, and that conditions restricting the future use of

³ Paragraph: 017 Reference ID: 21a-017-20190723

permitted development rights may not pass the test of reasonableness or necessity.

47. Given my conclusion on the first main issue, it is necessary to remove permitted development rights under the GPDO⁴ to require a planning application for any future enlargement of the dwellinghouse. This would not automatically preclude enlargements but would allow the Council to assess them on a case-by-case basis against Green Belt policy in the development plan and the Framework.
48. To safeguard the privacy of the occupiers of Number 54, it is necessary to impose conditions requiring the upper floor side facing window of ensuite 3 to be obscurely glazed and non-opening, and to require a planning application for any additional upper floor window openings in this side elevation. However, as the proposed dwelling would be separated from all other nearby dwellings by generous distances, it would be unnecessary to restrict the construction of windows in other elevations.
49. I have limited evidence that the existing dwelling did not benefit from permitted development rights to erect outbuildings within its curtilage for incidental purposes. I saw that a garage block and a small brick building have been recently erected and would likely serve incidental purposes. Whilst the spacious grounds could physically accommodate outbuildings, this is not an unusual situation, and there is limited justification before me in accordance with the PPG, for imposing a condition removing permitted development rights to erect incidental outbuildings.

Green Belt Balance and Conclusion

50. Paragraphs 152 and 153 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt. The proposal would be inappropriate development in the Green Belt and would harm Green Belt openness. Substantial weight is given to the totality of the proposal's harm to the Green Belt.
51. However, the other considerations, namely the fallback development, carries very substantial weight in favour of the appeal proposal, sufficient to outweigh the totality of harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do exist, and the appeal proposal would comply with TLP Policies DP7, DP10 and DP20, and TDCS Policies CSP18 and CSP20, the requirements of which are set out above.
52. For the reasons given above, I conclude that the appeal proposal is consistent with the development plan when read as a whole. The appeal should be allowed.

G Sylvester

INSPECTOR

⁴ Town and Country Planning (General Permitted Development) (England) Order 2015.

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved plans: 2113-1-CAR-01-010-EXI-PLA-00; 2113-1-CAR-01-020-PRO-PLA-00; 2113-1-CAR-07-400-PRO-PLA-00; 2113-1-CAR-01-200-PRO-PLA-00.
- 2) The dwelling hereby permitted shall not be occupied until details of hard and soft landscape works, together with a programme for their implementation, have been submitted to and approved in writing by the local planning authority. The hard and soft landscape works shall be carried out in accordance with the details and implementation programme approved. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season in accordance with the approved landscaping scheme.
- 3) The dwelling hereby permitted shall not be occupied until the first floor window in the north west facing elevation and serving ensuite 3 has been fitted with obscure glazing with a minimum privacy level 3 obscurity, and no part of that window that is less than 1.7 metres above the internal floor level of the room in which it is installed shall be capable of being opened. The window and the obscure glazing shall be retained as such thereafter.
- 4) The dwelling hereby permitted shall not be occupied until full details of the proposed Air Source Heat Pump (ASHP), including a timetable for its installation, have been submitted to and approved in writing by the local planning authority. The ASHP shall thereafter be installed and retained in accordance with the approved details and timetable.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no upper floor windows other than those expressly authorised by this permission shall be constructed on the north west (side) facing elevation of the dwelling hereby permitted.
- 6) Notwithstanding the provisions of Classes A, B and D of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the dwelling hereby permitted shall not be enlarged.

End of schedule