



Appeal Decision

Site visit made on 13 August 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/G2245/W/24/3336634

Early Autumn, East Hill Road, Kent, Knatts Valley TN15 6YB

- 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 N Ridley against the decision of Sevenoaks District Council.
 - The application Ref 23/02728/FUL, dated 19 September 2023, was refused by notice dated 24 November 2023.
 - The development proposed is the erection of 1 ½ storey dwelling (existing dwelling to be demolished) (resubmission).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. However, the proposed changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The main parties have been provided with an opportunity to comment on these reforms and their responses have been taken into account, where received.

Main Issues

3. The main issues are:
 - 1) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - 2) the effect of the proposal on the openness of the Green Belt; and
 - 3) 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 necessary to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

4. The appeal site is a parcel of land featuring a dwelling off East Hill Road. It is sited alongside a paddock, former stable building and other nearby structures and properties. It is located in an area with a predominantly rural feel, set within the Green Belt. The proposal seeks to erect a replacement dwelling at the site.

5. The Framework states that construction of new buildings in the Green Belt should be regarded as inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This is subject to exceptions, including at paragraph 154(d), 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 disagree as to whether the dwelling on site constitutes a 'building' for the purposes of paragraph 154(d).
6. The Town and Country Planning Act 1990 (the 1990 Act) defines a building as including 'any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building'. It has been established by case law that there are three primary factors in determining whether something is a building, being: size, the degree of physical attachment, and permanence. No one of these factors is decisive and any assessment is a matter of fact and degree in the circumstances.
7. The appeal property is of a notable size, being equivalent to a modest bungalow. It is agreed that it was brought onto the site in four separate pieces, such that it was constructed and formed as a single unit on site, rather than being brought in as a ready-made structure. It has been in place since 2002 and there is no evidence to suggest that it has been moved since. It is further indicated that it would not be possible to move the structure off site in one piece and, based on my observations, I have no reason to disagree with this assessment.
8. I observed that the dwelling sits on a concrete raft and steel structure with surrounding brick plinth. The Council asserts that it could be readily detached from this base but I found that this nevertheless served as a foundation and provided a degree of attachment to the land. Other features at the site lend an additional degree of permanence and attachment, such as the brick and masonry steps at the dwelling entrances, and the raised front courtyard area. In addition, while not determinative in their own right, the presence of block paved paths around the site leading to the dwelling entrances, the render on the outer elevations, and the provision of services, all contribute to the overall degree of permanence.
9. A lawful development certificate (LDC) was issued in respect of the structure in 2022, which stated that the unit was not considered to fall within the definition of a building. The Council has stated that it maintains the essential characteristics of a mobile home, and points to the fact that the unit was originally designed as an 'Alpine Lodge' mobile home. Nevertheless, the Council agrees that the dwelling would not currently meet the statutory definition of a mobile home and, on my observations and the information before me, I have no reason to disagree.
10. Taking account of all of these factors, and even noting the LDC, I find that the specific circumstances of this case are such that the appeal property amounts to a building for the purposes of the 1990 Act. Accordingly, whether the proposal would constitute inappropriate development will depend on whether it would result in the replacement of a building in the same use and not materially larger than the current building at the site.
11. The existing building is in use for residential purposes, and the proposal is for a residential dwelling, such that the proposal would result in the replacement of a building in the same use as the current building at the site. However, the proposal would be of a notably larger footprint and height when compared with the current situation. Submitted information suggests that the proposal would have an external footprint 51% larger than the current building, and would be 2.1m taller at its

highest point. As such, the overall scale, bulk, and mass of built form at the site would be significantly increased and I find that it would result in a building that is materially larger than the current building at the site.

12. My findings in this regard are supported by Policy GB4 of the Sevenoaks District Council Allocations and Development Management Plan 2015 (the ADMP). While 'materially larger' is not defined in the Framework, Policy GB4 states that replacement dwellings in the Green Belt should meet certain criteria, including that the total floorspace of the replacement dwelling, together with any retained extensions, alterations and outbuildings, would not result in any increase of more than 50% above the floor space of the original dwelling. I find this to be a reasonable position to take with regard to ascertaining what may constitute 'materially larger'.
13. Even noting that the proposed footprint would be 51% larger, being 1% over the Policy GB4 threshold, it remains that it would not meet the policy test. Furthermore, while the Council stated that the 51% increase may be potentially acceptable they did not provide a definitive stance in this regard, and for the reasons I have outlined, I have found that the proposal would be materially larger than the current building at the site.
14. Accordingly, the proposal does not fall within the exception at paragraph 154(d) of the Framework. There is no suggestion it would meet any other exception in the Framework and it would therefore represent inappropriate development.

Openness

15. The Framework states that "*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.*" It has been established that openness has both a spatial and visual aspect.
16. From both a visual and spatial perspective, the proposal would inevitably lead to a reduction in the openness of the Green Belt through the introduction of an additional footprint and height of built form at the site, which would be notably more prominent than the existing situation in the landscape and take up more space. While wider views of this may be limited due to landscaping and the distance from East Hill Road, it remains that in the immediate vicinity of the site this would be noticeable. Therefore, harm to the Green Belt would arise from the loss of openness resulting from the proposal.
17. Green Belt serves five purposes, one of which is to assist in safeguarding the countryside from encroachment, a clear purpose of the land as per the Green Belt Assessment. Even acknowledging the residential nature of the site and wider surrounds, due to the increase in built form the proposal would amount to a level of encroachment into the countryside, conflicting with the purposes of including the appeal site within the Green Belt.

Other considerations

18. The Framework states that 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.
19. The appellant asserts that the proposal would represent a visual improvement to the current dwelling and would assimilate with other 1.5 storey development in the

surrounds. I find that any such improvement would be modest, and attach limited weight to this benefit. Similarly any purported benefit arising through the provision of improved living accommodation at the site carries limited weight.

20. The proposal would provide additional benefits to the local economy through the provision of work for local builders and trade, and would use locally sourced and sustainable materials. However, given the temporary nature of construction and the single dwelling nature of the scheme, any benefit in these regards is limited.
21. Planning permission has been granted for the erection of a replacement dwelling at the site. However, this is for the siting of a pre-fabricated dwelling and, in any event, is a structure with a smaller external footprint, gross internal area, and lower ridge height than the appeal scheme. For the reasons given, I have found that the precise dimensions on the scheme before me would result in harm and limited weight is attached to the existence of this permission.
22. The main parties agree that the proposal would conserve and enhance the landscape and scenic beauty of the Area of Outstanding Natural Beauty. Based on my observations, I have no reason to disagree. In addition, the appellant has outlined that the proposal would not result in harm by way of waste, pollution, or any impact on biodiversity. Such lack of harm is neutral in the planning balance. In addition, while no third party objections have been received, it remains that I have found harm arising as outlined above.

Whether Very Special Circumstances Exist

23. The proposal would amount to inappropriate development in the Green Belt, and would cause harm to the openness of the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Even when taken cumulatively, the other considerations advanced in support of the scheme, and the proposed Framework changes, would not clearly outweigh the substantial harm to the Green Belt. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. In this regard, the proposal would also conflict with Policy GB4 of the Local Plan.

Conclusion

24. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR