



Appeal Decision

Site visit made on 1 October 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/X0415/W/24/3342470

118 Chilterns, Chalfont Road, Seer Green, Buckinghamshire HP9 2QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Donovan against the decision of Buckinghamshire Council.
 - The application Ref is PL/23/4054/FA.
 - The development proposed is erection of a replacement dwelling, detached garage, natural swimming pool and associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

1. The main issues are:

- whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan Policies,
- the effect of the proposal on the openness of the Green Belt, and
- 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

2. The appeal site is located within the Green Belt. Paragraph 143 of the Framework sets out the purposes of the Green Belt which are; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
3. Paragraph 154 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they relate to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

4. The existing building is modest in size compared with the size of the plot and the proposed replacement dwelling would result in a substantial increase in size, in gross internal area, footprint and volume.
5. Accordingly, the proposed dwelling would be materially larger than the existing and the exemption at paragraph 154 (d) of the Framework is not met. Accordingly, the proposal would comprise inappropriate development in the Green Belt. I am required to attach substantial weight to this harm.
6. Policy GB7 of the Local Development Framework Core Strategy for Chiltern District adopted November 2011 (CS) states that the replacement of an existing habitable dwelling will be acceptable in principle providing the new dwelling is not materially larger than that to be demolished after taking into account any extension that could have been built as "permitted development". However, Paragraph 154 of the Framework is clear that development is inappropriate if the new building is materially larger than the one it replaces, the fallback position will therefore be addressed later in the decision.

Effect on openness

7. I have already found that the proposed development would be materially larger than the existing dwelling and it is therefore inevitable that the significant additional built form would have an impact on openness both spatially and visually.
8. The proposal includes extensive glazing which could result in the proposed development being highly illuminated compared to the existing building. However, I am mindful that these matters could be controlled by suitably worded planning conditions.
9. I acknowledge that the appeal site is well screened by a dense hedgerow and the re-positioning of the dwelling, away from the site entrance, would allow some views to the open space beyond. However, the proposed dwelling would nonetheless be significantly larger than the existing and I therefore conclude that the proposed development would fail to preserve the openness of the Green Belt.

Other considerations

10. The appellant has put forward a fallback position in the form using permitted development rights to increase the overall size of the existing dwelling, including constructing an outbuilding. While I note that the appellant has submitted a certificate of lawfulness for the works outlined, I have not been provided with a copy of the decision, if one has been made at the time of this appeal decision. Nonetheless, I accept that the fallback position is available.
11. I also accept that there is a greater than theoretical possibility that the fallback would be implemented should the appeal scheme be dismissed. It is therefore a material consideration in the assessment of the proposal.
12. However, for significant weight to be afforded to a fallback position there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme.

13. The fallback position would result in an increase in gross internal area, footprint and volume over the appeal scheme before me. However, the fallback would be a different design to the appeal scheme in that the works would largely be limited to the side of the existing dwelling at a lower height and would also include an outbuilding to the side, towards the rear, which would be subordinate and not add to the bulk of the original building.
14. The appeal scheme would result in a dwelling that is in a different position, deeper within the plot with a larger proportion of the building being two storeys high which would be visible from Chalfont Road, despite the boundary treatment. It also includes a detached garage to the front of the building and open swimming pool to the rear. The result is that both of these and in particular the garage due to the deeper siting within the plot will likely require hard landscaping such as paths, hardstanding and driveways which would unlikely be required for the fallback and would therefore have an impact on openness.
15. I acknowledge that hard landscaping could be controlled by planning condition, however, due the position of the garage and swimming pool there would still need to be some form of hard landscaping to link them for the future occupiers of the dwelling.
16. While the appeal proposal would have a reduced gross internal area, footprint and volume, for the reasons outlined, I find that the effect on openness would be more harmful through the increased height and associated hard landscaping.
17. I note that the Council consider that the fallback would not be permitted development, however, even if the works could be carried out under permitted development rights, for the reasons outlined, it would be less harmful than the appeal proposal before me. The fallback position therefore carries limited weight.
18. The proposed development would be designed to adhere to Passivhaus standards which attracts some weight in favour of the proposal.
19. The appellant has referred to a number of appeal decisions and a development nearby in an attempt to justify the appeal proposal. I do not have the full details in respect of such example so I cannot be sure of the circumstances. In any case, I have determined the appeal on its own merits, based on the evidence before me.
20. However, in regard to the development next to the appeal site at Land Adjacent to Little Orchard this relates to a new dwelling in place of an existing stable building. However, while this development has a similar set back distance from the road, from the evidence before me it occupied a similar footprint than the existing stable buildings and also incorporates a courtyard garden which minimises the spread of domestic paraphernalia that differs from the appeal before me.

21. In relation to the appeal decisions¹ referred to by the appellant, these relate to appeals whereby various gaps have been considered acceptable to be permitted development. However, whether or not the fallback scheme would be permitted development or not is not a matter that is before me as part of this appeal.

Green Belt balance and conclusion

22. The other considerations that weigh in favour of the proposal only carry limited weight when considered as a whole. Therefore, in this case they do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify granting planning permission for development in the Green Belt do not exist.
23. In conclusion, the proposal conflicts with Policies GB2 and GB7 of the CS and national policy set out in the Framework which seek to protect the Green Belt. There are no other considerations that outweigh that conflict and for this reason the appeal is dismissed.

D Wilson

INSPECTOR

¹ APP/M4320/X/17/3172923, APP/J195/D/21/3283160, APP/J2373/D/21/3277572, APP/J2373/D/21/3277572