



Appeal Decision

Site visit made on 3 February 2025

by **J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 March 2025

Appeal Ref: APP/G2245/W/24/3348025

Colous Shaw, Wickhurst Road, Weald, Sevenoaks, Kent TN14 6LX

- 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 & Mrs AG Fernando against the decision of Sevenoaks District Council.
 - The application Ref is 23/03648/FUL.
 - The development proposed is the demolition of the existing dwelling and detached outbuildings and erection of a replacement two storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and detached outbuildings and erection of a replacement two storey dwelling at Colous Shaw, Wickhurst Road, Weald, Sevenoaks, Kent TN14 6LX in accordance with the terms of the application, Ref 23/03648/FUL, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published in December 2024. The revised Framework is a material consideration which should be taken into account from the day of publication. Having considered the revisions and in light of the principles of natural justice, the parties have been provided with an opportunity to comment on the revised Framework.
3. The appellant has submitted a Bat Emergence Survey Report¹. The Council has confirmed that in light of this information its third reason for refusal has been overcome, subject to a condition requiring the development to be carried out in accordance with the mitigation measures within the report. The Council therefore no longer contests that reason for refusal. The appeal has been determined on this basis.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the Framework;
 - the effect of the proposal on the openness of the Green Belt;
 - whether the proposal would conserve and enhance landscape and scenic beauty in the Kent Downs National Landscape; and

¹ Prepared by Fellgrove Environmental Consultants

- if it is inappropriate, whether the harm to the Green Belt 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 development.

Reasons

Whether the proposal is inappropriate development

5. The Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
6. The appeal site comprises a detached single-storey dwelling with two outbuildings to the rear of the dwelling. The existing buildings are set back from Wickhurst Road in a discreet position on rising land. The front and side of the site is covered by mature trees that form part of a large woodland, primarily to the rear of the site. The proposal is for a two-storey dwelling to replace the existing dwelling. The two outbuildings would also be demolished.
7. Policy GB4 of the Sevenoaks Allocations and Development Management Plan 2015 (SADMP) permits proposals to replace an existing dwelling within the Green Belt which meet specific criteria. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate. An exception to this is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The parties agree that the new building would be in the same use as the one it would replace and that the proposal would meet criteria a), c) and d) of Policy GB4 of the SADMP.
8. Despite the two-storey scale of the dwelling, the proposal would have a limited increase in floorspace and would lead to an overall reduction in built form across the site. The parties agree that the floorspace of the replacement dwelling would not be materially larger than that of the existing dwelling and outbuildings and would fall below the 50% threshold set out in Policy GB4 of the SADMP. Moreover, the compact form of the proposal, including the removal of the existing outbuildings, would reduce the overall spread of development at the site.
9. Criterion b) of Policy GB4 requires that the design and volume proposed does not materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion. The replacement dwelling would be positioned on the footprint of the existing dwelling and would be finished with a monopitch roof. While this would restrict the overall height of the building, the new dwelling would be higher than the existing dwelling. In addition, the first floor accommodation would make it bulkier at first floor level than the single-storey building that it would replace.
10. The replacement dwelling would be more visible within the area than the existing building, due to its greater height and additional bulk at first floor level. Nevertheless, the dwelling would primarily occupy the footprint of the existing building, which is in a discreet position within the undulating landscape. In addition to the surrounding woodland, the proposal would not appear harmfully prominent within its surroundings.
11. The proposal would compress development at the site, but would lead to a reduction in the overall visual and spatial openness of the Green Belt due to the

greater scale and bulk of the replacement dwelling. Nevertheless, the moderate increase in height and additional bulk would not be excessive and, with the sensitive position of the development on the footprint of the existing dwelling, the proposal would not materially harm the openness of the Green Belt.

12. The Framework does not provide a definition of what constitutes a materially larger replacement building. However, as set out above, and when taken together with the requirements of Policy GB4 of the SADMP, the replacement dwelling would not be materially larger than the one it replaces. Accordingly, the proposal would comply with Policy GB4 and Paragraph 154 of the Framework.
13. Where a proposal is not inappropriate development in the Green Belt, as per Paragraph 154 d) of the Framework, very special circumstances do not need to be demonstrated in order for the proposals to be considered acceptable in Green Belt terms. Consequently, the proposal accords with Policy GB4 of the SADMP as set out above and the Framework, which seeks to protect the Green Belt from harm.

National Landscape

14. The appeal site is within the Kent Downs National Landscape (NL). Paragraph 189 of the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in the NL. Section 245 of the Levelling-up and Regeneration Act 2023 places a duty upon me to seek to further the statutory purposes of NLs, which is to conserve and enhance the natural beauty of the area of outstanding natural beauty. The existing dwelling and outbuildings are in a discreet position, set back from Wickhurst Road. The presence of mature trees to the front and rear of the site, limits the visibility of the buildings within the landscape.
15. The site is located on undulating land that rises up from the access from Wickhurst Road. The area comprises a mix of open fields and large areas of woodland. This is recognised within the Eden Valley Low Weald Landscape Character Assessment, which notes the undulating landform, series of streams and deciduous woodland blocks.
16. Development in the area is typically set back from Wickhurst Road and is varied in scale and architecture. The dwellings within Wickhurst road are primarily dispersed and due to the mature trees, including areas of woodland, and the undulating landform are largely viewed individually within the landscape.
17. The proposed replacement dwelling would be positioned broadly on the footprint of the existing dwelling, which is set within the rising land at the site. While the contemporary design of the dwelling would be unusual, the architecture would respond to the rural character of the site and its surroundings. The vertical dark timber weatherboarding would complement the natural, wooded setting and would minimise the visual effect on the landscape. Moreover, the monopitch roof form would limit the overall scale of the building and would reflect the incline of the land.
18. The proposed dwelling would be higher than the existing dwelling and would be glimpsed from public vantage points through the trees along the edge of Wickhurst Road. However, visibility is not analogous to harm. Whilst the scheme would increase the built form at first floor level, the design and material finish of the proposal would complement and harmonise with the landscape such that it would rest comfortably within its surroundings.

19. The dwelling would include large window openings, including at first floor level where there are currently no openings. Although the dwelling would likely result in some light pollution, this would be read within the immediate context of existing development. Given such, I consider that this would not significantly exceed light that could already be produced at the site if used in its current form. External lighting at the site could be controlled by a suitably worded condition.
20. I conclude that the proposal would conserve landscape and scenic beauty in the NL. The development would therefore accord with Policy EN5 of the SADMP, which requires proposals within the NL to be of a form, scale, materials and design that would conserve and enhance the character of the landscape.

Conditions

21. Suggested planning conditions have been provided by the Council. I have considered the conditions having regard to the Framework and advice contained in the Planning Practice Guidance. I have adjusted the wording of some conditions to improve precision.
22. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
23. A condition requiring the submission of a Construction Ecological Management Plan is required to safeguard ecology during the construction phase. As such, it is necessary for this condition to be discharged prior to the commencement of the development.
24. The quality of the environment, including the NL, would be protected by conditions in respect of external materials, mitigation and compensation for bats, ecological enhancement, hard and soft landscaping, and external lighting. In addition, a condition is included requiring the removal of the outbuildings identified for demolition.
25. I have not imposed the electric vehicle charging point condition because this provision is a requirement of the Building Regulations and the condition is therefore unnecessary.

Conclusion

26. For the reasons given above the appeal should be allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers: A164-P-100 Rev P1, A164-P-102 Rev P3, A164-P-120 Rev P2, A164-P-121 Rev P2, A164-P-122 Rev P2, and A164-P-123 Rev P2.
- 3) The external materials of the development hereby permitted shall be constructed in the materials stated within the Koto Design and Access Statement dated December 2023.
- 4) Prior to the commencement of development, a Construction Ecological Management Plan (CEMP (biodiversity)) shall be submitted to and approved in writing by the local planning authority. The CEMP (biodiversity) shall be based on Section 5 and Appendix VI of the Preliminary Ecological Appraisal for Colous Shaw, Wickhurst Road by PJC, dated 11th December 2023 (Ref: 5172E/23/02) and include the following:
 - a) purpose and objectives for the proposed works;
 - b) the identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;
 - c) detailed design(s) and/or working method(s) necessary to achieve stated objectives;
 - d) extent and location of proposed works (including receptor area(s) in case animals are encountered during development) shown on appropriate scale maps and plans for all relevant species and habitats;
 - e) reference to the relevant, granted, protected species licences (e.g. roosting bats) obtained in advance of site clearance/construction and any relevant mitigation measures required;
 - f) reference to or inclusion of a detailed Arboricultural method statement to protect retained trees and ancient woodland;
 - g) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - h) persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake/oversee works;
 - i) initial aftercare and reference to a long-term maintenance plan (where relevant);
 - j) disposal of any wastes for implementing work.

The works shall be carried out in accordance with the approved details for the duration of construction.

- 5) All mitigation and compensation for bats shall be carried out in accordance with the details contained in the Bat Emergence Survey report for Colous Shaw, Wickhurst Road, TN14 6LX (Ref: 1058, dated 27th June 2024) unless additional and/or alternative measures are required by Natural England. Should Natural England require less mitigation and/or compensation than that detailed within the aforementioned plans and strategy, then all remaining measures shall be included as enhancements under the Framework.

Bat mitigation, compensation and any enhancements, shall be implemented as above and retained thereafter.

- 6) No development above slab level shall commence until an ecological enhancement plan has been submitted to and approved in writing by the local planning authority. The plan shall include native species planting and ecological enhancement features. The enhancement works shall be implemented prior to first use of the development hereby permitted and shall thereafter be retained.
- 7) Prior to occupation of the development hereby permitted, the outbuildings identified to be demolished on plan A164-P-102 Rev P3 shall be removed from the site.
- 8) No development above slab level shall commence until a hard and soft landscaping plan has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to occupation of the development hereby permitted. All planting, seeding and turfing shall occur within the first planting season following the first occupation of the dwelling or the completion of the development (whichever is sooner). Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting season with others of similar size, species and number.
- 9) Prior to the installation of external lighting, a lighting design plan shall be submitted to and approved in writing by the local planning authority. The plan shall identify areas/features on-site where disturbance could occur to bat breeding/roosting sites and/or foraging/commuting routes; and show how and where external lighting shall be installed on scaled plans, and through the provision of technical specifications, so that it can be clearly demonstrated that areas to be lit will not disturb bat activity. The lighting plan should also have consideration to the dark skies of the National Landscape and demonstrate how they minimise light pollution. The details shall be implemented as approved and maintained thereafter in accordance with the lighting plan.

End of Schedule