



Appeal Decision

Site visit made on 4 March 2025

by **K Savage BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st April 2025

Appeal Ref: APP/P3040/W/24/3352111

The Woodlands, Bunny Hill, Bunny, Nottinghamshire NG11 6QQ

- 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 and Mrs Narinder and Parminder Bhupal against the decision of Rushcliffe Borough Council.
 - The application reference is 23/02243/FUL.
 - The development proposed is demolition of existing dwelling and erection of a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of a replacement dwelling, at The Woodlands, Bunny Hill, Bunny, Nottinghamshire NG11 6QQ in accordance with the terms of the application, Ref 23/02243/FUL, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. On 12 December 2024, an updated National Planning Policy Framework (the Framework) was published. The main parties have had the opportunity to comment on the revised Framework and I have taken the responses into consideration.

Main Issues

3. The appeal site lies within an area of Green Belt. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies, the provisions of the Framework and the effect on the openness of the Green Belt;
 - If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

4. Paragraph 154 of the Framework states that development within the Green Belt is inappropriate unless certain exceptions apply. Based on the evidence before me, the relevant criteria in this case are (d) and (g). Policy 21 of the Local Plan Part 2: Land and Planning Policies (October 2019) (the LPP2) sets out that applications within the Green Belt will be determined in line with the approach of the Framework.

5. Criterion (d) permits the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The existing dwelling occupies a large, U-shaped footprint on a site with varying ground levels. The dwelling is mostly single storey, including the two deep wings projecting rearwards, except for a projection to the front that appears two storeys in height, but contains a single level of accommodation internally in what is a split level floorplan. The volume of the existing building is given at 1323m³.
6. The proposal seeks to demolish the existing building and rebuild it on largely the same U-shaped footprint, but at two storeys in height. The proposed volume is stated to be 2171m³, an increase of 848m³ or some 64%. The Framework does not define 'materially larger' and I am not provided with any development plan policy or other Council guidance that establishes a definition. It is therefore a matter of planning judgment.
7. The replacement dwelling would retain the same general footprint and shape, with a broad front elevation and two rear wings. It would also replicate the gabled front projection. However, the volumetric increase of nearly two thirds would be considerable and would be located to the upper parts of the building where the difference in scale would be apparent. Thus, I find that the proposed replacement dwelling would be materially larger than the dwelling it would replace, and so would not meet with the exception at Paragraph 154(d).
8. Separately, criterion (g) permits limited infilling or the partial or complete redevelopment of previously developed land (PDL) (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt. The site is previously developed, and is not otherwise excluded from the definition of PDL in the Framework.
9. The Council initially assessed the proposal against the previous version of the Framework, where the test at criterion (g) was that development would not have a greater impact on the openness of the Green Belt than the existing development. As such, the Framework test now sets a higher threshold of harm to openness before development on PDL is considered inappropriate in the Green Belt. In response to this, the Council states that the proposal would result in substantial harm to openness and that the exception at criterion (g) would not apply.
10. The dwelling is located on high ground within a spacious plot in the open countryside next to the A60 road. The grounds are surrounded by woodland to the north and east, with a further band of trees on the western side screening the site from the road. The southern (rear) boundary is more open, but adjoins an agricultural field on rising ground, which restricts longer distance views. On approach along the road from the north, and from the road at the site entrance, the house is glimpsed through the tree cover and along the driveway, but does not stand out as a conspicuous feature, despite its elevated position. The dwelling is more screened during the summer months when trees are in leaf.
11. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. Given the above context, the visual effect on openness would be modest, as despite the enlarged size of the replacement dwelling, it would be seen for the most part in long range, glimpsed views, from where the difference in massing would not appear significant. The Council suggests that the tree cover could be

removed, but I am not persuaded this is likely given it provides privacy for the occupants and is sufficiently distant from the dwelling so as not to pose an issue in terms of blocking light.

12. In spatial terms, while I have found that the replacement dwelling would be materially larger in size, it would not extend over any larger of a footprint, and the additional volume would be contained within a building of similar overall shape and position. This would serve to temper the overall spatial effect of the proposal.
13. Taken together, I find that the proposal would result in a moderate adverse effect on openness. This would not reach the threshold of 'substantial harm' under criterion (g) and the proposal would not amount to inappropriate development in the Green Belt. Consequently, the proposal would not conflict with Policy 21 of the LPP2 or the provisions of the Framework.
14. Given my findings, it is not necessary to consider whether the proposal would meet the exception at Paragraph 155 relating to 'grey belt' land. Moreover, as the proposal does not amount to inappropriate development in the Green Belt, there is no requirement to assess if there are other considerations that amount to very special circumstances needed to justify the development.

Other Matters

15. The appellant has produced evidence in respect of various extensions which could be undertaken to the existing dwelling in the alternative to the appeal scheme that it is argued would have a cumulatively greater impact on openness. I have also noted various appeal decisions cited. However, whilst I have had regard to this evidence, and have noted the comparative size of the alternative proposals, my findings above in respect of the Green Belt mean this evidence is ultimately not determinative and it is not necessary to address it further.
16. The Council did not refuse permission in respect of the effect of the proposal on the character and appearance of the area. The replacement dwelling would largely replicate the design principles of the existing dwelling and despite being larger in size would not represent overdevelopment of what is a very spacious plot. As set out above, the proposal would be well screened from the road and the nearest dwellings on the opposite side of the A60. Consequently, the proposal would have limited visual impact on the wider surroundings and the character and appearance of the area would be preserved.
17. A Protected Species Survey undertaken by the appellant has indicated the presence of a bat roost within the existing dwelling. The Council in assessing the proposal considered the likelihood of a licence being issued by Natural England and the three derogation tests of the Conservation of Habitats and Species Regulations 2017 being satisfied. The Borough Ecologist confirmed that no nationally or locally designated sites are likely to be directly impacted by the works and the Council concluded that the tests would be satisfied, subject to the recommended mitigation measures within Section 5 of the appellant's survey. I have no reasons to reach a different view. Therefore, subject to a suitably detailed licence application being made, I am content that such a licence would be granted.
18. The Council did not refuse permission in terms of neighbours' living conditions. Given the distance to the nearest dwellings and intervening tree cover, I agree that no harm would arise in these respects. Neither have I any firm reasons to find

against the Council's conclusions that no harm would arise in respect of trees or highway safety.

Conditions

19. A condition setting out the approved plans is necessary to provide certainty. Details of the external materials to be used are required to ensure a satisfactory appearance. For the same reason, it is necessary to secure details and implementation of a landscaping scheme.
20. It is further necessary to require implementation of mitigation measures contained within the appellant's Protected Species Survey, and the installation of swift bricks, to safeguard protected species, ecology and biodiversity. A condition is also required to ensure the dwelling meets required water efficiency standards.
21. The Council's Landscape Officer has suggested a condition to secure tree protection in accordance with BS5837 during the construction period. However, there is no indication that any trees are protected, and I saw on site that sufficient space exists around the dwelling to ensure works can be undertaken without undue harm to trees. As such, it is not necessary to impose a condition to this effect.
22. Details of electric vehicle charging facilities are sought by the Council. However, since June 2022, the requirement to provide electric vehicle charging points has become part of the Building Regulations. The development plan policies referred to by the Council do not explicitly require a more stringent approach compared to the Building Regulations. Thus, I find no basis for imposing the condition, which would duplicate the provisions of other legislation and fail the test of necessity.
23. Finally, the Council seeks by condition a restriction on permitted development (PD) rights for extensions, roof alterations, porches and outbuildings. The Planning Practice Guidance states that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity and should be precisely defined. The Council's reason for the imposition of the condition is to protect the Green Belt, the character and appearance of the area and neighbours' living conditions. However, given my findings that the dwelling would not be inappropriate development to the Green Belt, and having regard to the particular form of the dwelling and site layout, I am not persuaded that there would be a demonstrable risk to the character of the surrounding area, or to the purposes of the Green Belt, from works under PD in this case. Therefore, I have not imposed the condition.

Conclusion

24. I have found above that the proposal would not be inappropriate development in the Green Belt, nor would there be material harm in any other respect. Consequently, there is no conflict with the development plan or the Framework and so the appeal should be allowed.

K Savage

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 the following drawing numbers: 616.31 Rev B (Landscape Strategy); 616.32 Rev A (Block Plan); 616.34 Rev A (Replacement Dwelling – Plans as Proposed); 616.35 Rev A (Topographical Survey and Site Location Plan); 616.35 Rev A (Replacement Dwelling – Elevations and Sections as Proposed).
 - 3) The development hereby permitted must not proceed above the damp proof course level until details of the type, texture and colour of the materials to be used in the construction of the exterior of the development in addition to any architectural detailing have been submitted to and approved in writing by the Local Planning Authority. The development must only be constructed in accordance with the approved materials.
 - 4) Notwithstanding the approved plans, and prior to the commencement of works beyond damp proof course level, a landscaping scheme detailing the hard and soft landscaping of the site (including the location, number, size and species of any new trees/shrubs to be planted and existing and proposed site levels and finished floor level), shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter the scheme must be carried out and completed in accordance with the approved details no later than during the first planting season (October - March) following either the substantial completion of the development hereby permitted or it being brought into use, whichever is sooner. If, within a period of 5 years of from the date of planting, any tree or shrub planted as part of the approved scheme is removed, uprooted, destroyed, dies or become diseased or damaged then another tree or shrub of the same species and size as that originally planted must be planted in the same place during the next planting season following its removal.
 - 5) The development shall be completed in strict accordance with the recommendations for reasonable avoidance and enhancement measures outlined within Section 5 of the Stage 1 and 2 Protected Species Survey by C.B.E Consulting dated 30th October 2023.
 - 6) The residential dwelling hereby permitted shall be designed to meet the higher 'Optional Technical Housing Standard' for water consumption of no more than 110 litres per person per day.
 - 7) Prior to first occupation of the dwelling, a scheme incorporating at least two swift bricks into the built fabric shall be submitted to and be approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved scheme and the swift bricks shall be retained and maintained for the lifetime of the development.
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