
Appeal Decision

Site visit made on 24 April 2025

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 May 2025

Appeal Ref: APP/T2215/W/25/3359417

Bean Cottage, Shellbank Lane, Bean, Kent DA2 8AX

- 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 S Haider against the decision of Dartford Borough Council.
 - The application Ref. is DA/23/01286/FUL.
 - The development proposed is for the demolition of the existing detached dwelling and outbuildings and the erection of a replacement dwelling and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing detached dwelling and outbuildings and the erection of a replacement dwelling and associated works at Bean Cottage, Shellbank Lane, Bean, Kent DA2 8AX in accordance with the terms of the application Ref. DA/23/01286/FUL, subject to the conditions in the enclosed schedule.

Preliminary Matters

2. My attention has been drawn to a previous appeal at the site that involved a proposal for a replacement dwelling (reference APP/T2215/W/22/3306040). I shall have regard to this background when considering the merits of this scheme.
3. The application was accompanied by a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (the Planning Act). The Council has been given the opportunity comment on this document and so I have taken it into account in my decision.

Main Issues

4. The main issues are:
 - whether the proposal constitutes 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 and purposes of the Green Belt;
 - 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

5. Bean Cottage is a detached dwelling with outbuildings; the property appears vacant and I saw at my site visit that the grounds are somewhat overgrown. Shellbank Lane to the front
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is lined by a number of other houses in the direction of the village, set in wider countryside of fields and woodland.

6. Paragraph 154 of the Framework states the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. Paragraph 154 (d) permits the replacement of an existing building, provided the new building is in the same use and not materially larger than the one it replaces. I consider this to be the relevant criterion in determining this appeal; paragraph 154 (g) pertains to limited infilling or complete redevelopment which is not proposed in this instance.
7. The current modest bungalow is to be replaced by a large house set over two floors; I appreciate the appellant's contention that there is extant additional floorspace and return to this below under other considerations. Taking into account the footprint and volume calculations pertaining to existing and proposed built form, the existing and proposed elevations on the submitted plans, and from what I observed on my visit, I consider that the scale and extent of the scheme would be materially greater than that of the dwelling to be replaced.
8. In addition, paragraph 143 of the Framework advocates that the Green Belt serves five purposes: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
9. Paragraph 155 then states the development of homes should not be regarded as inappropriate where (a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) there is a demonstrable unmet need for the type of development proposed; (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and (d) where applicable the development proposed meets the 'Golden Rules' requirements set out in Framework paragraphs 156-157. For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143.
10. The Council concedes in its statement that purposes (a), (b), or (d) in paragraph 143 would not be undermined in this instance. Whilst there is argument that purpose (c) would be compromised, there is no requirement to assess this criteria on grey belt grounds. I am satisfied that the site can be considered grey belt land as defined in the Framework.
11. The Council states that it can demonstrate a five-year supply of housing, and this is not disputed by the appellant. For the purposes of criterion (b) of Framework paragraph 155, there is no unmet need for the type of development proposed.
12. The appeal plot already accommodates an existing residential use. The scheme only proposes a one-for-one replacement, and I am therefore mindful that vehicular movements generated by the new development would not significantly exceed those which might already occur. As such, I am drawn to conclude that the proposal would be in a sustainable location as required by paragraph 155 (c) of the Framework.
13. The appeal scheme is not major development, and therefore the requirement of criterion (d) of Framework paragraph 155 to satisfy the 'Golden Rules' is not applicable in this instance.
14. The proposal would therefore fail criteria (b) of paragraph 155 of the Framework. Taken together with my findings under paragraph 154, the scheme would constitute inappropriate

development within the Green Belt, contrary to Policy M12 of the Dartford Local Plan to 2037 (LP) and paragraph 154 of the Framework.

Openness

15. Openness can be perceived spatially and visually. The new house would provide a quantum of built development that does not currently exist on site, which would have a substantial adverse impact in spatial terms.
16. Visually, the new proposal would be seen from the public highway, despite the presence of existing vegetation and boundary treatments adjacent to Shellbank Lane. Its mass, bulk and height would also restrict appreciation of openness across the landscape, especially at first floor level. Overall, I find there would be considerable harm on visual grounds.

Other considerations

17. The previous Inspector's decision acknowledged that the approval of various applications under permitted development (PD) represents a potential fallback position, which should be compared with the appeal proposal; I agree that there is the theoretical possibility that this scheme could be implemented in full. I have been provided with the plans relating to the previous appeal, together with drawings that broadly illustrate the extent of the fallback position. Moreover, the appellant refers to an obligation under Section 106 of the Planning Act to prevent the implementation of the outbuilding granted under Council reference DA/21/01484/LDC, which would otherwise result in further built form on the land.
18. It is clear that the proposal has been repositioned and considerably reduced in scale in order to address the Inspector's concerns. The resultant dwelling would be located closer to the siting of the existing bungalow, whilst the development would not necessitate extensive changes to landform or the construction of retaining walls, areas of hardstanding and other built features, which my colleague judged would have an urbanising effect across the site.
19. The submitted calculations indicate that the cumulative floorspace and volume of the PD scheme would significantly exceed the new dwelling, inevitably causing adverse spatial and visual impacts to Green Belt openness. The largest section of the main dwelling would be substantially higher than the appeal house, and whilst certain elements would be single storey in nature, the outbuilding would be set back onto an elevated, more prominent, position within the site, resulting in extensive encroachment into areas of the site which are presently undeveloped.
20. Taken in the round, I am satisfied that development would be acceptably consolidated into one part of the land, and its overall effect on the surrounds would be less than that which could otherwise be constructed.
21. I consider that the measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the tests for planning obligations set out in the Framework and I have taken account of them in reaching my decision.

Conditions

22. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the Framework. I have altered some of the Council's suggested conditions for clarity and conciseness. In addition to the standard implementation condition, the approved plans are listed for certainty. Conditions requiring external materials, hard and soft landscaping details and site contours/levels to be submitted would provide for a satisfactory appearance.

23. A condition relating to car parking would ensure the provision and retention of space for turning and parking on site, and one requiring complete demolition of existing buildings is necessary as per the description of development and the appellant's intentions. Conditions in respect of front boundary treatment and visibility splay information, together with a restriction on further boundary treatments, are imposed in the interests of visual amenity and highway safety.
24. A condition to limit water consumption rates for the dwelling would be necessary to protect the environment and ensure the efficient use of resources. Given the Green Belt considerations outlined previously, removing Classes A, B and E permitted development rights is both reasonable and necessary to protect openness. A condition in relation to archaeology would ensure that features of interest are properly examined and recorded.
25. Works in accordance with ecological recommendations and mitigation measures, and further enhancements would prevent adverse impacts upon protected species and encourage biodiversity; this can include details in respect of external lighting, bat and bird boxes, insect hotels and so on. A management plan would minimise the effect of construction on local amenity. Accessibility to and within the dwelling is a matter covered by the Building Regulations and so a condition in this regard is unnecessary.

Conclusion

26. The proposal would be inappropriate development, which by definition is harmful to the Green Belt and should not be approved except in very special circumstances. There would be a detrimental impact upon openness. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
27. I consider that the other considerations do clearly outweigh the harm, and the very special circumstances necessary to justify the development do exist. I conclude that the proposal would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this.
28. Having regard to the above and all other issues advanced, the appeal is allowed.

C Hall

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3914-01, 3914-03A, 3914-04A, 3914-05A, 3914-06, 3914-07B, 3914-08A, 3914-09, 3914-10, 3914-11B.

- 3) No development above the damp proof course shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 4) Prior to the first occupation of the new dwelling, a scheme of hard and soft landscaping shall submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

The approved hard landscaping scheme shall be implemented prior to the occupation of the development hereby approved and maintained thereafter. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and 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 with others of similar size and species.

- 5) Before commencement of the development hereby approved (apart from demolition), details of existing and proposed levels of the land and buildings, shall be submitted to and approved by the Local Planning Authority. The details shall include a contoured site plan. Development shall be carried out in accordance with the approved details.
- 6) The development shall not be occupied until car parking spaces have been laid out within the site in accordance with the approved plan 3914-03A. The parking area shall be used and permanently retained exclusively for its designated purpose.
- 7) Prior to occupation of the dwelling hereby approved the existing dwelling and outbuildings on site as identified on drawing number 02 (existing block plan) and 03 (existing ground floor plan) and any new buildings or structures that are on site which may have been erected prior to the implementation of this planning permission, shall be demolished in their entirety and all materials removed from site to the satisfaction of the Local Planning Authority.
- 8) Prior to occupation of the dwelling hereby approved, details of the front boundary treatment, including any gates or fencing, facing Shellbank Lane and appropriate resulting visibility splay details for the access way onto Shellbank Lane shall be provided to and approved in writing by the Local Planning Authority. The approved works shall be fully installed prior to first occupation of the new dwelling hereby approved and the visibility splays maintained thereafter.
- 9) Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and e-enacting that Order) no erection of fences, walls, gates or other means of enclosure shall take place on site within 3 metres of the access to the highway (Shellbank Lane) without the prior written permission of the Local Planning Authority.
- 10) The dwelling hereby approved shall be designed such that internal water usage shall not exceed 110 litres per person per day.
- 11) 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 development permitted by virtue of Classes A, B and E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 12) Prior to the commencement of development the applicant, or their agents or successors in title, will secure:

- i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority;
 - ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority; and
 - iii) a programme of post excavation assessment and publication.
- 13) No development shall commence until an Ecological Enhancement Management Plan has been submitted to and approved in writing by the Local Planning Authority. The statement shall be based on the recommendations provided on 06/03/2024 by the Kent County Council Ecological Advice Service, and shall provide detailed mitigation measures and ecological enhancements to be carried on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details and retained thereafter.
- 14) Prior to the commencement of the development, including demolition, details of a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following details: the routing of construction and delivery vehicles to and from the site; parking and turning areas for construction and delivery vehicles, plant, machinery and site personnel; timing of deliveries; provision of wheel washing facilities; details of proposed working and delivery hours; a site waste management plan; and details of how noise, vibration and dust shall be controlled during the construction period. The approved CEMP shall be adhered to throughout the construction period for the development.