



Appeal Decision

Site visit made on 8 July 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2024

Appeal Ref: APP/K2230/W/24/3336638

Shorne Mead, Pear Tree Lane, Shorne, Kent DA12 3JT

- 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 Gavin and Dawn Coward against the decision of Gravesham Borough Council.
 - The application Ref is 20230514.
 - The development proposed is demolition of the existing dwelling and garage and the erection of a replacement dwelling with associated access and landscaping works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted drawing No 3316-011 Sight Line from Outside Boundary Impact on Surrounding Area and a Preliminary Ecological Appraisal (September 2023) (PEA) with the appeal. These documents provide additional information but do not change the development applied for, and the Council has had an opportunity to comment on them. I am therefore satisfied no party would be prejudiced by my taking them into account in my decision.
3. I understand the Council is undertaking a partial review of its Local Plan Core Strategy and preparing a Development Management Policies Document. I am not aware of the exact stage these documents have reached, the extent of unresolved objections or whether their policies will be considered as consistent with the Framework. Consequently, in accordance with Framework paragraph 48, I give them limited weight.
4. The National Planning Policy Framework (the Framework) was updated in December 2023. The parties' appeal statements were submitted after that date, so I am satisfied they have had an opportunity to comment on the revised Framework.

Main Issues

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

- the effect of the proposal on the character and appearance of the surrounding area;
- the effect of the proposal on biodiversity, having regard to potential measures necessary to avoid, mitigate or compensate for any negative effects; 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

6. Paragraph 154 of the Framework states the construction of new buildings in the Green Belt is inappropriate subject to several exceptions. One of these allows replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.
7. Policy CS02 of the Gravesham Local Plan Core Strategy 2014 (GCS) supports development outside defined settlements where it is compatible with national policies for protecting Green Belt and policies in the development plan. I give this Policy full weight because it requires consideration of national Green Belt policy. Saved Policy C12 of the Gravesham Local Plan First Review 2014 (GLP) requires replacement dwellings to be no larger than the existing dwelling, unless it can be demonstrated that modest enlargement is required to allow the provision of basic amenities. I find this test is not fully consistent with the Framework. Accordingly, I give full weight to the Framework as a material consideration and limited weight to GLP Policy C12.
8. I understand the current building has a floor area of approximately 315m², plus 84m² in the garage. Therefore, the total floor area of the existing buildings is just under 400m². According to the Council, the proposed building would have a floor area of some 763m², including the proposed basement, which would be considerably larger than this existing quantum. Even if I were to accept the appellant's figure of 538m² for the proposed floor area, this would be greater than the floor area of the existing dwelling and garage combined. The fact that some of this would comprise an internal swimming pool and spa is of little consequence. By the appellant's calculations, the total volume of the proposed dwelling would also exceed that of the existing house and garage by some 400m³. I therefore find the new building would be materially larger than the buildings it would replace, whether or not its footprint would be smaller.
9. For the above reasons, I conclude the proposal would be inappropriate development in the Green Belt, contrary to Framework paragraph 154 and GCS Policy CS02. Framework paragraphs 152 and 153 state that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any such harm.

Openness

10. Openness can be perceived spatially and visually. Given the floor area and volume of the proposed dwelling would exceed those of the existing buildings, the proposal would adversely affect the spatial openness of the site.

11. From the front, the visual effect of the new building on openness would be limited bearing in mind the proposed removal of the garage and the lower height of the proposed flat roof compared to that of the existing roof. However, at the rear, the new dwelling would appear considerably larger than the current buildings because of the additional basement level, notwithstanding that this would be semi-submerged and include a swimming pool. The extent of hard landscaping proposed around the basement level and associated residential paraphernalia would further aggravate the new building's detrimental effect on visual openness.
12. I therefore find the proposed development would result in considerable harm to the openness of the Green Belt, to which, as set out in the Framework, I give substantial weight.
13. Given this finding, the proposal would not satisfy the exception at paragraph 154g) of the Framework because it would have a greater impact on the openness of the Green Belt than the existing development.

Character and appearance

14. The appeal site is within the Shorne Wooded Downs Landscape Character Area (SWD). Having regard to the Gravesham Landscape Character Assessment (GLCA), the SWD has an undulating landform with significant areas of woodland providing a strong sense of enclosure. Traditional properties within Shorne and Shorne Ridgeway are distinct and promote a strong sense of place. Guidelines for the SWD seek to reinforce the distinctive features of the landscape and reinforce character through the use of vernacular elements.
15. Pear Tree Lane extends from Shorne Ridgeway to form a ribbon of mainly large, detached houses surrounded by woodland and open countryside. Most dwellings have a traditional appearance with hipped and gabled roofs, although some are of relatively recent construction and there is a variety of architectural styles. Notwithstanding this diversity, the generally conventional appearance of the houses gives Pear Tree Lane an understated and coherent character.
16. The proposed replacement dwelling would have a striking contemporary design. Its assertive rectilinear form, strong geometrical shapes, conspicuous use of contrasting materials and extensive glazing would diverge starkly from the understated and traditional forms and materials prevalent in Pear Tree Lane. These bold architectural elements would jar with rather than reinforce locally distinctive features and look out of place in the surrounding rural landscape. This would undermine local character.
17. I recognise the sources of inspiration for the proposal and acknowledge that contemporary and modern design can sometimes complement natural settings. However, for the reasons I have outlined I find the design proposed in this instance would not achieve the lightness or harmony with nature suggested by the appellant, whether or not it is 'urban' in character.
18. Even if the proposed flat roof would reduce the bulk and mass of the building, its lower ridge line relative to neighbouring dwellings would accentuate its incongruous style and appearance. As noted above, the proposed use of extensive glazing would add to the visual prominence of the building, rather than breaking up the building as suggested, notwithstanding that the windows would reflect views. The additional landscaping would also do little to reduce

the dominance of the structure bearing in mind the extent of hard surface proposed, and the sloping topography of the site. The size of the plot and proposed siting of the replacement dwelling in relation to site contours and the prevailing front building line would be insufficient to mitigate the visual harm I have identified.

19. I acknowledge views of the rear of the building would be partly restricted from the bottom of the garden because of the steep fall of the land. However, the discordant roof form would remain visible from this perspective and a considerable proportion of the new house would also be seen from neighbouring premises. In addition, although views from Pear Tree Lane would be largely obscured by vegetation in the summer months, visibility from the road would increase when deciduous plants are not in leaf.
20. I have considered the recently built homes on Pear Tree Lane brought to my attention¹. Even if some of these include modern elements and materials, they also all comprise design elements that reflect and respect the surrounding built context, so the visual effect in each case is not as jarring as that before me.
21. Given the proximity of other dwellings in Pear Tree Lane, I do not find the proposed house to be an isolated dwelling in the countryside for the purposes of paragraph 84 of the Framework. Consequently, consideration of the exception at sub-section e) of that paragraph is not necessary.
22. For the above reasons, I conclude the proposal would have a harmful effect on the character and appearance of the surrounding area. This is contrary to GCS Policies CS12 and CS19, which seek to conserve, restore and enhance overall landscape character, taking account of the GLCA; and require new development to integrate well with the surrounding local area. It is also contrary to the Framework, which seeks developments that are sympathetic to local character, including the surrounding built environment and landscape setting.

Biodiversity

23. Paragraph 99 of Circular 06/2005 states "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."
24. I have considered the appellant's PEA and note this includes a preliminary bat roost assessment. Bats are a protected species. Although no evidence of bats was recorded at the time of the assessment, potential roost features were identified in the buildings proposed to be demolished. The PEA therefore recommends a further bat emergence survey between the months of May and August. No such further survey is before me.
25. Consequently, I cannot be sure what measures would be necessary to avoid, adequately mitigate or, as a last resort, compensate for any significant harm to biodiversity, as required by paragraph 186 of the Framework; or whether such

¹ Brakenside, Bucklebury, Bethany, Springhill, Long Reach Cottage, Merrievale

measures could be provided and secured. The appellant's suggestion of proceeding with demolition under the supervision of an ecologist would not be sufficient to overcome the gap in information before me at the time of making my decision. The proposal therefore has potential to result in significant harm to biodiversity, including protected species. No exceptional circumstances have been demonstrated such that the required additional ecological survey could be left to coverage by a planning condition.

26. For the above reasons, I conclude the proposed development does not adequately demonstrate the effect on biodiversity and the measures necessary to avoid, mitigate or compensate for any negative effects. This is contrary to GCS Policy CS12, which requires compensatory provision where a negative impact on protected species cannot be avoided. It is also contrary to Circular 06/2005 and the Framework.

Other considerations

27. The appellant points out that the main house and garage could be extended based on a permission and lawful development certificate granted in 2022². Having regard to *Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314*, I acknowledge this fallback position is a material consideration and I am satisfied there is a real prospect the extensions would be built if this appeal were dismissed.
28. However, the combined floor area of the extensions would be less than that of the current proposal, even if their combined volume would be slightly larger. In addition, there would be no basement level development and the extensions' appearance would be more in keeping with the character of the surrounding area. I therefore find the fallback position would have a less harmful effect on the openness of the Green Belt and the character and appearance of the surrounding area than the proposal now before me. Consequently, I give the fallback position limited weight.
29. I have considered the other cases brought to my attention³. On the information provided, the size and/or design quality of the fallback positions were judged to be more harmful than the proposed development in those cases. Therefore, the circumstances in those other cases are not directly comparable to those before me. I have considered the appeal scheme on its individual merits.
30. The development would have a modest economic benefit through construction, to which I attribute limited weight.
31. I have taken account of the representations in support of the proposal, but these do not alter my conclusions on the main issues. I note the appellant's reasons for wishing to build the proposed house, but little weight can be attached to such personal circumstances.
32. The Council has raised no concern with the effect of the proposal on the living conditions of neighbouring occupiers, parking or access. On the evidence before me, I see no reason to disagree. However, an absence of harm in these respects is a neutral factor. A high standard of energy efficiency would be required by other regulatory regimes, so does not carry positive weight in favour of the proposal.

² Application references 20221114 and 20220788

³ Application references 20221239, 20200984, 20150719; Appeal ref V3120/A/12/2188869

Green Belt Balance

33. According to paragraphs 152 and 153 of the Framework, inappropriate development in the Green Belt should not be approved except in very special circumstances. These will not exist unless the harm to the Green Belt, and any other harm resulting from the proposal, are clearly outweighed by other considerations.
34. I am required to give substantial weight to the harm the development would cause to the Green Belt by virtue of its inappropriateness and to openness. I also give significant weight to the harms I have found to the character and appearance of the surrounding area and to biodiversity. The weights I have attached to other considerations do not clearly outweigh these harms. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

35. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR