



Appeal Decision

Site visit made on 21 May 2013

by **G Powys Jones MSc FRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 June 2013

Appeal Ref: APP/G2245/A/13/2191751

Woody Holme, Rock Hill, Orpington, Kent, BR6 7PP

- 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 J Smith against the decision of Sevenoaks District Council.
 - The application Ref SE/12/02163/FUL, dated 8 August 2012, was refused by notice dated 3 December 2012.
 - The development proposed is the erection of a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement dwelling at Woody Holme, Rock Hill, Orpington, Kent, BR6 7PP in accordance with the terms of the application Ref SE/12/02163/FUL, dated 8 August 2012, subject to the conditions identified in the attached Schedule to this decision.

Main issues

2. The main issues are:
 - (a) Whether the proposal is inappropriate or not inappropriate development in the Green Belt (GB) for the purposes of the *National Planning Policy Framework* (the Framework) and local development plan policy.
 - (b) The effect on the openness of the GB and the character and appearance of the surrounding rural area.

Reasons

Inappropriate or not inappropriate development

3. In the terms of paragraph 89 of the NPPF the replacement of a building in the GB is not inappropriate development provided that the new building is in the same use and is not materially larger than the one it replaces. The appeal proposal involves replacing a building of the same use, but the term 'materially larger' is not empirically defined in national policy.
4. Policy H13 of the Sevenoaks District Local Plan (LP), upon which the Council relies, sets out the criteria for determining applications for replacement dwellings in the GB. One criterion in the Council's view is not satisfied, and it requires that the gross floor area of the replacement dwelling should not exceed the gross floor area of the 'original' dwelling by more than 50%.

5. The term 'original' bears closer examination, particularly since the definition of 'original' provided as a footnote to LP policy H13 does not specifically cover the circumstances of this case.
6. The dwelling to be replaced was originally a mobile home, to which a quiet room/conservatory were added. The Council considers that the building extensions carried out to the mobile home should not be counted as part of the floor space of the 'original' dwelling. That is, the area of the mobile home should be regarded as that of the 'original' dwelling.
7. The difficulty I have with this approach is that immediately before the building works took place, the mobile home was not regarded as a dwelling; indeed it appeared not be a building, since it fell within the statutory definition of a caravan. Thus the building works that took place could not be described as extensions to a dwelling. Rather, with the passage of time, the works became to be regarded as instrumental in the formation of a dwelling.
8. Whilst, as the Council says, the building works may have altered the status of the mobile home when they were carried out, the mobile home was not lawfully recognised in planning terms as a dwelling until 12 July 2012, when the Council granted a Certificate of Lawfulness. There could possibly have been an earlier date when the extended mobile home could have been considered to have lawfully evolved into a dwelling, but that is of little or no consequence in the context of LP policy H13 since no recent extensions have been carried out.
9. It is therefore appropriate and logical in the unusual and particular circumstances of this case that the date of the Certificate should be taken as that of the 'original' dwelling for the purposes of LP policy H13. The Council does not dispute that what currently exists on site is a building.
10. That being the case, the floor area of the proposed replacement dwelling is less than 50% greater than that of the original dwelling, and is not materially larger than the dwelling/building to be replaced.
11. I therefore conclude that the proposed replacement dwelling/building, in the terms of LP policy H13 and the policy guidance of the Framework would comprise development not inappropriate in the GB.

Openness, character and appearance

12. The site is located in countryside within an area where the surrounding land displays a variety of mixed rural uses, including stables, nursery and horticulture. The site is well screened largely because of the local lie of the land and the well-established local trees and vegetation.
13. The Council does not object to the design of the replacement dwelling, and considers that the appellant has taken full advantage of the existing topography. I share that view and agree with the Council's general conclusions that the dwelling, in view of its low profile and sheltered siting, would not be intrusive within the wider landscape and that its impact on the open countryside would be minimal. These are important considerations given that the site falls within the designated Kent Downs Area of Outstanding Natural Beauty (AONB).
14. Since the dwelling would not be materially taller and larger than that to be replaced, the impact on the perceived openness of the GB would be minimal

and barely noticeable, especially taking account of the very sheltered nature of the site.

15. I conclude that the proposed replacement dwelling would have an insignificant impact on the openness of the GB, and would not harm the character and appearance of the surrounding area or its landscape. Accordingly, I find no conflict with the relevant terms of the Framework, designed to protect the openness of the GB, or with those provisions of LP policies EN1 & policy L08 of the Council's Core Strategy designed to protect the landscape of the AONB and to ensure high quality design.

Conditions

16. In the interests of visual amenity more detail than is shown on the drawings is required of the materials to be used in the construction of the building and any external hardstanding. For the same reason, a landscaping scheme, details of the means of enclosure and a more accurate indication of levels is required.
17. A condition shall be imposed in the interests of sustainability requiring compliance with level 3 of the Code for Sustainable Homes. Given the site's countryside location, within an AONB, I consider that the exceptional circumstances exist to remove some of the permitted development rights accruing to the property.
18. Insufficient justification has been provided to warrant the imposition of the Council's suggested condition 8 on biodiversity.
19. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

Other matters

20. I have noted the references to other development plan policies, but the policies to which I have referred are considered to be the most relevant to this case.
21. I have taken account of all the other matters raised, including the planning history and the comments of the Parish Council, but none is of such significance as to outweigh the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. No development shall begin until details of the following matters have been submitted to and approved in writing by the Council: (a) a schedule and samples of the materials to be used on all external surfaces of the building, hereby permitted, and details of materials to be used in forming any hardstanding outside the building; (b) the finished floor level of the building in relation to existing ground levels, and (c) the proposed means of

- enclosure of the site. Development shall take place in accordance with the approved details.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations, including the insertion of windows, shall be carried out to the dwelling, hereby permitted, including its roof, and no outbuildings or garages shall be built within its curtilage, as defined on approved plan Ref DPP/SD/12/24/02.
 4. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
 5. All planting, seeding or turfing comprised in the approved details of 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, unless the local planning authority gives written approval to any variation.
 6. The dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
 7. The development hereby permitted shall be carried out in accordance with the following approved plans: DPP/SD/12/24/01; 02; 03 & 04.