



Appeal Decision

Site visit made on 28 March 2023

by **M. P. Howell BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 April 2023

Appeal Ref: APP/P0119/W/22/3311192

Abbotts Way, Gloucester Road, South Gloucestershire, Almondsbury BS32 4JB

- 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 and Mrs Neal and Lorraine Davies against the decision of South Gloucestershire Council.
 - The application Ref P22/05016/F, dated 16 August 2022, was refused by notice dated 12 October 2022.
 - The development proposed is for the demolition of 1 no. dwelling and 1 no. incidental outbuilding. Erection of 1 no. new dwelling with associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description I have used reflects what was agreed during the time the planning application was with the Council. It provides a more precise description of the development to which the appeal relates.

Main Issues

3. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt, including the effect on openness.
 - The effect of the proposal on the character and appearance of the area.
 - Whether the proposal is suitable housing development, with regard to the Council's housing development strategy.
 - If the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Inappropriate development in the Green Belt

4. Paragraph 149 of the National Planning Policy Framework 2021 (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt. New buildings within the Green Belt are inappropriate unless, amongst other things, include; -

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces

5. Policy CS5 of the South Gloucestershire Core Strategy 2013 (Core Strategy) states under Criterion 6 that proposals for development in the Green Belt will need to comply with the provisions in the Framework. Policy CS34 of the Core Strategy requires the Green Belt to be protected from inappropriate development. Policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan 2017 (Local Plan) states inappropriate development is harmful to the Green Belt and will not be acceptable unless very special circumstances can be demonstrated.
6. The Green Belt Supplementary Planning Document 2007 (SPD) refers to replacement dwellings but limits it to not having a greater impact on the openness of the Green Belt. This is a different assessment to the Framework, which allows for replacement buildings to be 'materially larger'. As such, in the context of this appeal I have given the SPD limited weight in my decision.
7. The site contains a detached two storey dwelling and a single storey outbuilding containing a swimming pool and sauna facilities. The buildings are positioned close to one another and are clearly visible as a group. The Council have not included the outbuilding as part of the assessment; however, I have no reason to believe that the outbuilding is used for anything other than being ancillary to the existing dwelling. Based on its proximity, visual relationship and use, I therefore accept that the outbuilding can be considered alongside the existing dwelling in the context of the proposed 'replacement' building. There are other buildings on the site, but they do not form part of the replacement building and have not been included within my assessment.
8. There is no definition with the Framework for what constitutes 'materially larger', and as such, I have determined the use of the word materially in ordinary English. Dictionary.com defines 'materially' to be in 'to an important degree; considerably.'
9. Taking the appellants case, at 2162 cubic metres, the proposed replacement dwelling would be 129.5% larger than the existing dwelling. However, this percentage is reduced to 33.5% larger when combining the volume of the existing dwelling and outbuilding (1619 cubic metres when combined). Despite the inclusion of the dwelling and outbuilding, the replacement building would have a greater volume than the existing buildings on site.
10. Quantitative measurements are useful to assess whether a building would be materially larger than the buildings it would replace. However, it is not the sole factor to be considered as part of this assessment, which requires consideration of the scale, bulk, massing, height of the proposal. In this respect the proposed dwelling comprises a wider and deeper main section as well as larger gable projections. Furthermore, although the overall height is not increased, the eaves height is raised, increasing the massing of the elevations and forming a complete second storey.
11. Consequently, I appreciate that the width, depth and eaves height on their own may not appear substantial. However, the combined or cumulative effect of the increase in volume, eaves height, depth and width in combination with two storey gable features would result in a replacement building that is materially larger than the existing buildings. I take the view that an increase

in volume together with the increase in scale, bulk and massing cannot reasonably be anything other than 'materially larger.' As such, the proposed development would not comply with the requirements of Paragraph 149 (d) of the Framework.

12. I appreciate that extensions to existing dwellings at this order of size are sometimes considered to comply with Paragraph 149 (c) of the Framework and Part 3 of the Policy PSP7 of the Local Plan. However, this exception requires such extensions to not result in 'disproportionate additions' over and above the size of the original buildings, which I consider to be a different test from it being not 'materially larger' than the existing building. Consequently, the proposed scheme does not fall within paragraph 149 (c) or comply with Part 3 of Policy PSP7 of the Local Plan.
13. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both a visual and spatial dimension and the absence of visual intrusion does not mean that there is no impact on the openness of the Green Belt.
14. It is accepted that the built form would be less spread across the site and consolidated into one building. However, the scale, bulk and massing of the existing dwelling is mitigated by the lower eaves height, subservient extensions as well as and the breaking up of the footprint into two separate buildings. Furthermore, the existing outbuilding is low lying, and its position makes it relatively inconspicuous from within the site and from mid to long range views outside the site.
15. In contrast, the proposed building would be materially larger, for the reasons set out in the above paragraphs. The building would also be prominent within the site, as well as from distance views from the Public Right of Way (PROW) and from Lower Tockington Road. As such, the larger volume of the building coupled with its greater scale, bulk and massing would have a greater impact on the spatial and visual openness on the site and Green Belt than the two separate, smaller buildings.
16. The appellants have put forward evidence concerning the implementation of permitted extensions approved by the Council. Case law¹ indicates that unimplemented planning permissions (including permitted development rights) would not affect the baseline assessment and should be considered as 'very special circumstances.' As such, I will return to this matter later in my decision.
17. Consequently, the proposed development would lead to a building, which is materially larger, and would have a greater impact on spatial and visual openness than the existing buildings. Accordingly, the proposal is inappropriate development, which, by its very definition, is harmful to the Green Belt and should not be approved except in very special circumstances. It would therefore fail to accord Policies CS5 and CS34 of the Core Strategy, PSP7 of the Local Plan and the exceptions set out in paragraph 149 of the Framework.

¹ Athlone House Ltd v SSCLG [2015] EWHC 3524 (Admin)

Character and Appearance

18. Abbots Way is a two-storey detached dwelling. It has low eaves and includes two storey gable projections and dormers that break through the eaves and sit comfortably within the steep sloping roof plane. The area is made up of a scattering of detached dwellings within dispersed plots in a woodland countryside setting. Whilst there is no dominant type of dwelling, from what I saw on site, the predominance is for large, detached dwellings which are set lower than Gloucester Road. The dwellings are large but appear to be a mix of single storey properties or properties without two storey height walls but include accommodation in the roof, similar to Abbots Way.
19. The proposed dwelling retains a central position on the site but with an assertive contemporary design. It is a building of considerable size, and includes higher eaves resulting in a full two storey elevation, large window openings and wide gable projections extending the full height. I consider that the assertive contemporary design, and the resultant scale, bulk and massing would mean that it would appear overly large and visually dominant in this context.
20. Whilst the proposed design and scale may not be objectionable in isolation or in a different context, it would appear at odds with the prevailing character and appearance of the properties situated on this side of Gloucester Road. The site is elevated from positions to the west, where the dwelling and a small cluster of the adjoining properties can be seen at a distance, as well as from localised views from the Public Right of Way (PROW). As such, the visual harm resulting from the design and scale of the dwelling would be exacerbated by its prominence.
21. I have had regard to the properties highlighted by the appellants, particularly the large and more contemporary dwelling on the opposite side of Gloucester Road. However, this house and others are at a higher level and visible from Gloucester Road. While close to the appeal site and accessed from the same road, they do not read as part of the same context.
22. I therefore conclude that the proposal would not accord with Policies CS1, CS5 and CS34 of the Core Strategy and Policies PSP1, PSP38 and PSP40 of the LP. Together, these policies require the highest possible standard of design. The proposed development should understand and respond constructively to the buildings and characteristics that make a positive contribution to the distinctiveness of the area. Development should also protect, conserve and enhance the rural areas' distinctive characteristics.
23. The proposal would also be contrary to the policies set out within Section 12 of the Framework which requires development to be sympathetic to local character.

Suitable Location for Housing

24. The appeal site lies outside a defined settlement boundary in the countryside. Policy CS5 of the Core Strategy sets out the strategy for development and states that elsewhere in Green Belt, proposals would need to comply with the provisions of the Framework or other relevant plan policies in the Core Strategy.

25. I accept that the proposal is a replacement dwelling, and it would not be contrary to aims of the Council's housing strategy in respect of growth and locating new dwellings in accessible locations. However, as I have determined that the proposed dwelling is materially larger, it is inappropriate development in the Green Belt and does not comply with 149 (d) of the Framework. As such, for the same reasons it would fail to comply with Policies CS5 and CS34 of the Core Strategy.
26. Furthermore, in respect of other relevant plan policies, Policy PSP40 of the LP would be applicable. The policy states that residential development in the open countryside outside of settlement boundaries will only be acceptable in a limited number of specified circumstances, such as replacement dwellings. However, the policy also requires replacement dwellings to be of a similar size and scale to the existing dwelling and of a design in keeping with the locality, minimising visual intrusion in the countryside. For the reasons set out above, I am of the view that the proposed dwelling is not of a scale and design that is in keeping with the locality.
27. Accordingly, the proposed dwelling is a not a suitable housing development, with regard to the Council's housing development plan strategy, conflicting with the requirements of Policies CS5 and CS34 of the Core strategy and Policy PSP40 of the LP. These policies, in general, encourage development in the Green Belt to must comply with the provisions of the Framework or relevant plan policies. In the circumstances of a replacement dwelling, proposals must have an appropriate scale, design and appearance that is in keeping with the locality, to protect the distinctiveness and valuable setting provided by the rural areas.

Other Considerations

28. I turn now to address other considerations that might clearly outweigh harm arising from inappropriate development in the Green Belt, to provide the very special circumstances required to justify a grant of planning permission.
29. The submitted evidence refers to the existence of a fallback position which could be implemented without seeking planning permission in accordance with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)². Although the appellants outline that the Council has raised an issue with the site edged red on the Certificate of Lawfulness, there is limited evidence to suggest the permission is not valid. As such, I have had regard to the permitted extensions and the details set out in paragraphs 3.78 and 3.79 of the Statement of Case. These include the erection of single storey extensions to the side and rear of the dwellinghouse.
30. Whilst the footprint of the existing property would be significantly increased in volume as a result of the permitted additions, the extensions would nevertheless remain more modest by their single storey height and less obtrusive than the appeal scheme. In this regard, I am of the view that even with the extensions, the proposal would be 'materially larger' by virtue of the scale, bulk and massing of the replacement dwelling, resulting in a greater impact on the spatial and visual openness of the Green Belt.

² Council references P21/0443/PNH, P21/04887/CLP

31. Furthermore, the new dwelling would benefit from permitted development rights and could therefore be extended itself. Whilst permitted development rights could be removed, the Planning Practice Guidance (the PPG) makes it clear that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Whilst the Green Belt location and the potential effect on the openness of the Green Belt could constitute a reason, it would not, in any case, outweigh the harm identified.
32. I have had regard to the Landscape Officer not objecting to the proposed scheme. However, for the reasons set out above, I am of the view that the proposed development would be harmful to the character and appearance of the area by failing to respond constructively to the buildings and characteristics that make a particularly positive contribution to the distinctiveness of the area.
33. I appreciate it helps to consider the five purposes of the Green Belt to determine whether a building is materially larger. However, compliance with the five purposes of the Green Belt does not infer that the proposal subject of the appeal, which does not conflict with the five purposes, cannot be materially larger or have a greater impact on openness.

Green Belt Balance

34. In considering the substantial weight given to the harm to the Green Belt³, to my mind, the benefits outlined above do not clearly outweigh the harm to the Green Belt. Therefore, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and the development would conflict with the Framework and the relevant policies of the development plan outlined above.

Conclusion

35. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

M. P. Howell

INSPECTOR

³ Paragraph 148 of the Framework.