



Appeal Decision

Site visit made on 8 January 2018

by **K Taylor BSc (Hons) PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2018.

Appeal Ref: APP/B1605/D/17/3184074

The Hayloft, The Reddings, Cheltenham GL51 6RL

- 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 Guild Residential against the decision of Cheltenham Borough Council.
 - The application Ref 16/02205/FUL, dated 14 March 2017, was refused by notice dated 22 June 2017.
 - The development proposed is described as “retention of works carried out; including those under planning permission reference 14/02249/FUL as well as the removal and replacement of elements of the original Hayloft building not covered by planning permission reference 14/02249/FUL and minor alterations to the approved scheme”.
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Decision

1. The appeal is allowed and planning permission is granted for works to the dwelling including those under planning permission reference 14/02249/FUL as well as the removal and replacement of elements of the original Hayloft building not covered by planning permission reference 14/02249/FUL and minor alterations to the approved scheme at The Hayloft, The Reddings, Cheltenham GL51 6RL in accordance with the terms of the application, Ref 16/02205/FUL, dated 14 March 2017, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 21634/3/C, 21634/4 A, and 21634/5 A.
 - 2) The external walling materials shall match those of the existing external walling materials and the external materials for the pitched roofs shall be carried out in accordance with the details stated on the planning application form.
 - 3) Only the flat roof area indicated as being a balcony on the plans (accessed from the dressing rooms for bedrooms 2 and 3) shall be used for such purposes. None of the other flat roofs created as part of this development shall be used as a sitting out area, terrace or balcony.

Application for costs

2. An application for costs was made by Guild Residential against Cheltenham Borough Council. This application is the subject of a separate decision.

Procedural matters and background

3. The description of the development includes the phrase “retention of works”. As retention is not an act of development it is not appropriate to use this in a

description of the development. The appellant and the Council have agreed, in writing, to the use of the revised description of development which I have utilised in my formal decision. The Council suggested the addition of the phrase "part retrospective". That is also not an act of development and in any event it is clear from this decision and the appeal documents that some of the works have already been carried out.

4. Since the determination of the application the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (the JCS) has been adopted by the Council. Policies CP 7 and CO 7 of the Cheltenham Borough Local Plan Second Review (the LP) remain part of the development plan. However Policy CO 8, which was also mentioned in the Council's reason for refusal, has been deleted. That policy related to extensions to dwellings in the Green Belt. With the adoption of the JCS the development must now be determined having regard to it including Policy SD5 which deals with development within the Green Belt. The Council have also drawn attention to JCS Policy SD4 which is a design policy of general applicability and so I have also taken it into account. The Council and the appellant have both had the opportunity to provide comments in respect of the implications of the adoption of the JCS.
5. In 2011 the Council granted a certificate of lawful proposed use or development for alterations and extensions to the appeal dwelling (the 2011 certificate). That included two double storey hipped roofed extensions on the east and west elevations with single storey extensions between each pair of double storey extensions on both sides. The certificate also included a large extension to an existing single storey off shoot on the southern elevation.
6. In 2012 planning permission was granted for the demolition of the existing property and the construction of a replacement dwelling (the 2012 permission). In 2015 planning permission was granted for "extensions to dwelling (part retrospective)" (the 2015 permission). The development had similarities with the proposal which was subject to the 2011 certificate but it also incorporated a number of changes primarily that a lower ground floor was incorporated into the extension to the south which was also increased in size.
7. Subsequently works were carried out which deviated from the 2015 permission. This included works of demolition to parts of the original building. The Council has described what has taken place as "... the erection of a number of extensions and new building elements and the replacement of pre-existing elements of the building" and that "...whilst the site has never been completely cleared, nothing remains of the original structure". My observations during my site inspection confirmed that no parts of the original building remained in place. The development had not been completed, the walls had not been finished to full height and there was no roof structure in place. On the east elevation there was a first floor flat roofed structure which contained 2 openings, this was only set back marginally from the walls of the two hipped roofed structures. However, amended plans were submitted to the Council which show this first floor flat roofed element being set back from its existing position and with no openings. It would, however, in fill a greater portion of the gap between the hipped roofed structures than was the case with the 2015 permission. The Council based its decision on the amended proposal and I have done likewise.

8. There is dispute as to whether Policy CO 7 of the LP is relevant. This deals with the rebuilding or replacement of dwellings in the Green Belt. While it may not have occurred in a single phase, it is clear that ultimately all parts of the original building have been rebuilt. In view of the description of the development, the proposal covers all works granted planning permission through the 2015 permission including the various deviations from that approval, which, when taken together, will result in the replacement of all of the original structure. I will therefore have regard to Policy CO 7 in this decision.

Main issues

9. The main issues in the appeal are:
- whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area; and
 - 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

Inappropriate development

10. The National Planning Policy Framework (the Framework) establishes that new buildings within the Green Belt are inappropriate unless, amongst other things, it involves the extension or alteration of a building or the replacement of a building. In respect of the former this is provided that the extension does not result in disproportionate additions over and above the size of the original building. In the case of the latter any new building must be in the same use and not be materially larger than the one it replaces.
11. Policy SD5 of the JCS contains no detailed guidance about the approach the Council will take in considering proposals for the replacement of a building or extensions to a building. It requires that development is restricted to the exceptions set out in the Framework. Policy CO 7 of the LP requires, for the replacement or rebuilding of a dwelling, amongst other things, that the volume of the original building is not exceeded by more than 15% or 70 cubic metres (whichever is greater) and that there is no harm to the openness and visual amenity of, or encroachment upon, the Green Belt.
12. The Framework defines the original building as a building as it existed on 1 July 1948 or, if constructed after this date, as it was built originally. There is no definitive evidence as to the size of the original building. The Council has provided a map dated 1954 which shows the foot print of the building. An aerial photograph from 2002 shows that the extent of the coverage of the building appears to be similar to the historic map. The appellant has provided copies of the existing plans submitted as part of the 2015 permission. These show a building with a similar footprint to the 2002 aerial photograph and the

- map. This appears to suggest that the building had changed little since 1954. These plans are therefore the best available evidence as to what the size of the original building may have been.
13. The appeal scheme would be materially larger than the size of the building as it was immediately prior to the various works taking place which are incorporated into the appeal development. Without doubt the various additions exceed both the 15% and the 70 cubic metres allowed within Policy CO 7 of the LP and so there would be conflict with this Policy.
 14. Taken together the various extensions and alterations forming the appeal development would result in significant additions over and above the size of the original building. This includes two storey extensions to the east and the west which significantly increase the width of the building within its plot as well as increasing the footprint. The extension to the south adds a further significant increase to the building's footprint and the first floor addition proposed between the two gable offshoots on the eastern elevation would also add additional volume. Given the extent of the additions I conclude that these are disproportionate extensions over and above the size of the original building.
 15. In view of these findings, irrespective of whether the development is considered as an extension/alteration to an existing building, or the replacement/rebuilding of a dwelling, or both, the outcome would be the same. In all scenarios I would reach the view that the proposal would be inappropriate development which is, by definition, harmful to the Green Belt. The development would conflict with Policy SD5 of the JCS in so far as it seeks to restrict development to that deemed not inappropriate by the Framework. However there would be no conflict with this Policy if very special circumstances existed which would outweigh the harm to the Green Belt and any other harm. I deal with this in the final main issue.

Openness

16. Openness is an essential characteristic of the Green Belt. The various works included in the development have and would result in the addition of significant bulk compared to the pre-existing building. The development would therefore result in a loss of openness and there would be conflict with Policy CO 7 of the LP and the Framework in this regard.

Character and appearance

17. The appeal site is located in an area which is predominately residential in character. Many of the buildings are detached, set back from the road, and cover much of the width of their plots. The size and appearance of the properties varies very considerably although the use of brick as a walling material is common. The appeal site takes the form of both a wide and fairly deep plot. It sits on the edge of the residential development on the southern side of the road.
18. The development would appear as a large building and it would cover most of the width of the plot. This would not be out of character with other properties in the area. The dwelling would extend significantly to the south, however, given the large size of the plot, it would still sit comfortably within the site. The main entrance to the dwelling would be located on the eastern elevation and it would not front the road. In this regard it would be different to the other

properties in the area. However, the pre-existing dwelling was also accessed from the eastern elevation and this would not be harmful to the character or appearance of the area.

19. A single storey off shoot is proposed on the side of the building facing the road. The pre-existing building had a structure in this location and this also formed part of the 2015 permission. This is now proposed to have a flat roof, however it would appear as a subservient addition to the building. The materials proposed are in keeping with those found generally in the locality.
20. There would be no specific conflict with Policies CP 7 of the LP or SD4 of the JCS which together seek to ensure that development complements and respects the neighbouring development and the locality.

Other considerations and very special circumstances

21. The 2011 certificate and subsequently the 2015 permission included development that would add significant bulk to the dwelling and change its appearance. The most significant difference between the 2015 permission and the appeal development is the element of first floor infill on the eastern elevation. It would be set well back from the eastern extent of the two storey hipped roof elements and well below the ridge line of the building. It would therefore appear as a discreet structure and, given its recessed position, it would not have any material impact on the openness of the Green Belt. The change from a pitched roof to a flat roof on the single storey element on the northern elevation and the use of the flat roof area on the western side of the building as a balcony are minor alterations. The external fire escape stairs sit below ground level within the basement light well and so these are also a subtle addition. The various changes to the fenestration are also modest and inconsequential to the overall appearance of the building. None of these differences would have any material impact on the architectural merit and the character and appearance of the building, or to the openness of the Green Belt when compared to the 2015 permission.
22. As all of the original building has now been demolished the Council considers that the appellant could no longer alter the building and revert back to the development granted by the 2015 permission. Even if this is correct, it is still material that the Council recently granted consent for a development that is very similar to the appeal scheme and which would have had no materially greater impact on the openness of the Green Belt or the character and appearance of the area. I give this factor very significant weight.
23. The 2012 permission for the replacement dwelling would be larger than the original building. At two storey level it would not have extended as significantly to the east and west as either the 2011 certificate or the 2015 permission nor would it have projected as far to the south. It would be of a similar height but extend further to the north at two storey height than either of those schemes. Overall it appears that the mass of the 2012 permission would have been a little less than the appeal scheme but its impact on openness would have been similar.
24. I give substantial weight to the harm that would arise to the Green Belt from the development. However, the grant of the 2011 certificate and both the 2012 and 2015 permissions are compelling. All of these would have resulted in a similar effect on the openness of the Green Belt compared to the appeal

development. I give these considerations very great weight. This would amount to very special circumstances which would justify the development and outweigh the harm to the Green Belt, by reason of inappropriateness and the effect on openness. Thus, when considered in the round, there would not be conflict with Policy SD5 of the JCS.

Other matters

25. The development is sited sufficiently far from the boundary with the neighbouring Cambria so that it would not be overbearing. On the elevation facing this neighbouring property there would be no windows above ground floor level, with the boundary reducing any overlooking from ground floor windows or doors to acceptable levels. A flat roof on the western elevation would be used as a balcony, but this would overlook the open countryside. A condition could prevent the use of other flat roofs for such purposes. The development would not result in harm to the living conditions of neighbouring residents.
26. Although the dwelling is larger than the pre-existing property, it would not result in a significant increase in traffic nor is there any evidence that significant areas of hard standing are proposed. The development incorporates a basement, however there is no authoritative evidence that this would result in increased flood risk or that measures could not be put in place to ensure that it is protected from flooding. Similarly there is no evidence that a larger single dwelling on the site would result in unacceptable pressure on the existing foul sewerage system. The proposed balcony on the western elevation of the building would be seen from the road. Balconies are not an unusual feature and as such it would not cause undue distraction to drivers. I also have no evidence that the development has or would result in any substantive harm to biodiversity.
27. Unease has been expressed about the layout of the building, the means of construction, the addition of a fire escape, and the size of the rooms. There is speculation that the appellant may be intending to use the building for purposes other than as a single dwelling and concerns associated with this including in respect of noise, traffic, and precedent. However, this appeal must be determined on its own planning merits for the development proposed. Alternative uses of the building would require a separate application which would also be considered on its own merits.
28. There has been a series of applications at the site, some of which have been necessary to regularise deviations from approved schemes. However these matters do not have any bearing on the substantive planning merits of the main issues in this appeal. Any requests by the appellant that the Council considers the removal of the site from the Green Belt also do not have any bearing on this appeal.

Conditions

29. I have imposed a condition specifying the relevant plans as this provides certainty. The building contains a number of flat roofs which are close to the boundary with the neighbouring Cambria. To prevent unacceptable overlooking to this property it is necessary that these areas are not used as balconies. In the interests of the character and appearance of the area it is necessary that appropriate materials are used in the completion of the development.

30. As the development has already started a commencement condition is not necessary. Permitted development rights should only be removed in exceptional circumstances. For extensions, the framing of the Town and Country Planning (General Permitted Development) (England) Order, typically relates back to the original building. As such the appeal development does not make it necessary to remove permitted development rights for further extensions. A single dwelling pre-existed on the site and so there is no justification to remove permitted development rights for other forms of development such as outbuildings, walls, or fences.
31. It is not necessary to impose a condition that the building is only used as a single dwelling as its use for more than one home would require planning permission. There are no sound planning reasons to require that the development is completed by a specified time. The dwelling is located in a residential area where there are a number of large dwellings and so the appeal building would not appear out of keeping with the prevailing built form. Therefore, it is not necessary to secure additional landscaping to the boundary. An entrance into the adjoining field is being used to also allow access to the appeal site, with the original access currently closed by temporary fencing. The use of the field access is not part of the appeal development and so a condition to require that its use ceases is not necessary. It would be neither reasonable nor necessary to impose a condition to seek to prevent the submission of further planning applications for development at the site.

Conclusion

32. Policy SD5 of the JCS restricts development in the Green Belt to that which is set out as being not inappropriate in the Framework unless very special circumstances exist. As they do exist in this case there is no conflict with this Policy or the development plan when it is considered as a whole. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

K Taylor

INSPECTOR