
Appeal Decision

Site visit made on 20 September 2016

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 14 October 2016

Appeal Ref: APP/Y3615/W/16/3150832

Kayos Cottage, Guildford Road, Effingham, Surrey KT24 5QQ

- 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 & Mrs Kollmer against the decision of Guildford Borough Council.
 - The application Ref 16/P/00426, dated 24 February 2016, was refused by notice dated 26 April 2016.
 - The development proposed is the erection of a replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has altered the design of the proposed house by reducing the extent of the basement and has requested that the amended plans be accepted in the appeal. It is only appropriate to take this amendment into account if no party would be disadvantaged. In *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL, 1982, P37] it was held that the main criterion is whether the development would be so changed by such amendments that to grant permission would be to deprive those who should have been consulted of the opportunity of such consultation.
3. While I note from the consultation responses that neighbours are concerned about their living conditions, the revision concerns the omission of living space. It would not alter the height of the house, or introduce new openings. Neither would it change its siting. The Council has responded to the amended layout, and does not object to it in terms of character and appearance, though I note it considers the amended layout to be a small change which would not fundamentally address its reason for refusal. I see no material effect from the amended layout over the determined layout in terms of character and appearance or the living conditions of neighbours, and I identify no prejudice to interested parties. Accordingly, in accordance with the principles in *Wheatcroft*, I have included the amended layout in my considerations below.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
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- its effect on the openness of the Green Belt; and,
- if it is 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 the development.

Reasons

5. The site the subject of this appeal is located outside any identified settlement boundary, on land at the end of a long, private drive off Guildford Road, and is enclosed by mature trees. Other houses are scattered alongside or accessed from a road to the north-west of the site. It is proposed to demolish the three-bedroom house and outbuildings, and build in its place a four-bedroom house.

Inappropriate development in the Green Belt

6. Saved LP Policy RE2 defines which kinds of development the Council considers to be inappropriate in the Green Belt. This definition excludes the replacement of a dwelling, provided it is in accordance with LP Policies H6 and H9.
7. Policy H6, which concerns replacement dwellings in the countryside, states that such development will be permitted, provided that it does not result in the loss of a small dwelling; is in scale and character with the area; has no unacceptable effect on the amenities enjoyed by the occupants of buildings in terms of privacy and access to sunlight and daylight; and, has no unacceptable effect on the existing context and character of the adjacent buildings and immediate surroundings. In addition, within the Green Belt, the Policy places a presumption against the replacement of dwellings with those which are materially larger.
8. There is disagreement between the parties over the calculation of the areas of the existing and the proposed house. While both parties agree that the floor area of the existing house is 112m², the appellant's measurement includes the area of the outbuildings on the site which appear to be included in demolition and which have an area of 53m², which the Council has discounted because of their poor state of repair. Including these makes a total existing area of 165m². The appellant has measured the floor area of the proposed house as 192m² and the Council, 200m², though the appellant contends that the Council has double-counted the area of the stairway and included the area of the basement walls.
9. In any event, the dispute between the parties over floor areas is not decisive in my determination of whether the proposal would be inappropriate development. Taking the appellant's best case, the proposed replacement dwelling would be 16% greater in floor area than the existing (165m² to 192m²). Moreover, the east elevation of the proposed house would be around 1.7m taller than the existing, and its west elevation around 2m taller than the house today. On these measurements, the proposed house cannot reasonably be considered to be anything other than materially larger than the existing.
10. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate development in the Green Belt. A number of exceptions to this are set out in paragraph 89 of the Framework. Of these, the most relevant to

this case is that which allows for the replacement of a building, provided the new building is in the same use, and is not materially larger than the one it replaces.

11. LP Policies RE2 and H6 with their presumption against materially larger replacement dwellings, and the additional development they define as inappropriate, are more prescriptive than the Framework and therefore not entirely consistent with it. Annex 1 of the Framework says that weight accorded to policies in plans should accord with their degree of consistency with the Framework. This therefore limits the weight I can attach to these policies.
12. Nonetheless, I conclude on this issue that the proposed development would result in a materially larger dwelling than the one it would replace. As such the proposal would be inappropriate development in the Green Belt, which paragraph 87 states is, by definition, harmful and should not be approved except in very special circumstances. Paragraph 88 of the Framework states that in considering any planning application, substantial weight should be given to any harm to the Green Belt.

Openness of the Green Belt

13. The proposed house would have a bisected footprint, larger than the more compact, rectangular footprint of the existing house, and its roof would be greater in height than the existing house. I am mindful that the fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open. However, while I acknowledge that the enlarged house would have an effect on the spatial dimension of openness, its visual impact on this openness would be limited by several factors.
14. While the central part of the existing house has a modest scale, it appears to have been extended and there are numerous outbuildings associated with it. The proposed house includes for no outbuildings or garage and the appellant states that an Article 4 Direction removes permitted development rights for enlargement and outbuildings. In these circumstances, the difference between the existing and proposed footprints would be less perceptible.
15. The site slopes down from west to east and broadens slightly towards the mid-points of its long sides. The proposed house would be sited further down the slope of the site where the land is around 1m lower and around 1m wider than around the existing house. While this would not reduce its volume, it would diminish its effect within the confined site which is enclosed by substantial tree planting. Notwithstanding the footprint of the proposal, its mass would not be concentrated in a single shape but would be divided into two, distinct forms joined by an inconspicuous corridor, which would also tend to diminish its effect on openness. Though the proposal would lead to a loss of Green Belt openness due to the dimensional enlargement over the existing building, because of the mitigating factors in the design which would reduce its visual effect on openness, it would not undermine the Green Belt purpose of safeguarding the countryside from encroachment.

Other considerations

16. The Framework advises that inappropriate development in the Green Belt should not be approved, except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
17. The appellant refers to existing planning permissions for a dwelling and for a detached garage on the site as a fall-back. The Council considers that they would be significantly more compact and less bulky than this proposal, and gives their combined area as 196.5m² whereas the area of the proposal in this case measures as 200m². It considers the consented schemes would be less harmful to the Green Belt than the proposal in this case, and the prospect of their implementation unlikely given that they are for buildings of traditional form and detailing whereas the appellant seeks a building with a more contemporary appearance.
18. Using the Council's measurements, the floor area of this proposal is around 3.5m² greater than the combined floor areas of the consented schemes. However, once the proposed basement area is discounted, the footprint of this proposal would be around 21m² less than the consented footprints combined. While the proposal would be taller than the consented garage, much of its roofline would be markedly lower than the roof of the consented house which would also have a chimney and five dormers projecting above the roof planes. I note the Council's point about this scheme requiring modelling to the ground levels; however the drawings indicate that this would be a balanced cut-and-fill adjustment. The fall-back schemes would have a materially greater impact on the openness of the Green Belt than would the design of this proposal.
19. I acknowledge the applicant's intention to implement the consents for a house and a garage, in the event of this appeal being unsuccessful. Given the state of repair of the existing house and the need for housing, I regard the consented schemes as having a realistic prospect of being built. They would have a greater spatial and visual impact on openness than the proposal in this case. The prospect of the consented schemes being realized is a factor to which I accord considerable weight.
20. Substantial harm arises from inappropriate development in the Green Belt. However, in this case I attribute substantial weight to the prospect of the construction of the consented schemes which would have a materially greater impact on its openness than this proposal. Balanced against the very moderate harm to openness from the proposal which I have identified, very special circumstances would exist in this case to justify inappropriate development in the Green Belt.
21. However, it appears that the existing permission for a detached garage could be implemented alongside this proposal, which has no garage. If both schemes were developed, given my findings above, this would result in inappropriate development leading to loss of Green Belt openness, which is not justified by very special circumstances. The implementation of an existing permission cannot be prevented by a condition attached to a subsequent permission, and there is no obligation before me which would bind the appellant from implementing the garage scheme in the event of this appeal being allowed. Despite my positive conclusion above, without such an obligation, I am unable

to conclude that this proposal would not result in harm to the Green Belt, and this is decisive for the appeal.

Other matters

22. I have had regard to the concerns raised by local residents, many of which I have considered within the main issues. I acknowledge the concerns over the appearance of the proposed house, and I note that the Council raised no objection in this regard. I appreciate that paragraph 58 of the Framework says that decisions should aim to ensure that developments respond to local character and history, and reflect the identity of local surroundings and materials. My impression of the houses in the area is that while they tend to have traditional features such as hipped and gabled tiled roofs, dormers, picture windows, and walls of brick or render, their arrangement is not so coherent or so distinctive to bind the design of this proposal.
23. Moreover, the proposed house would be sited deep within a large area of enclosed land in the Green Belt, relatively remote from roads and neighbouring houses. The design approach appears to be led by the topographic character and aspect of the land, and the relationship between the use and form of the dwelling and the surrounding space, which seems to be an appropriate innovation which paragraph 58 seeks not to prevent or discourage.
24. I note that the Framework says it is proper to seek to promote or reinforce local distinctiveness, and I find the proposal would reinforce the distinctive qualities of the area which are derived as much from the green, spacious and sylvan character as from its local vernacular of materials and detailing. Indeed, the Framework says that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality, or initiative through unsubstantiated requirements to conform to certain development forms or styles.
25. I note the objection that the proposed house may appear in views from the public footway on Guildford Road and from the bridleway along Salmons Road. It would be around 85m from Guildford Road and separated by two belts of mature tree planting between the road and the proposal. Views of it would be limited by the distance and the planting and would not be harmful. Similarly, it would be separated from the bridleway by a comparable distance and by neighbouring development or tree planting, resulting in it likely to have only a limited presence in public views. I acknowledge the objection to a wall in the context of timber post and rail fences; however a boundary enclosure sensitive to the semi-rural location could be secured by an appropriate condition.
26. The single-storey, above ground proposal would not be out of scale with surrounding houses, nor would its footprint or detached nature appear out of character. It would not have an unacceptable effect on the immediate surroundings, indeed the design appears to be based on its context. While there are no buildings adjacent, it would not have an unacceptable effect on the buildings in the surrounding area, and there would be no conflict with LP Policy H6.
27. I visited Queensleigh to the north of the site which has an oblique relationship to the appeal proposal. While I appreciate that the outlook of its occupiers would change as a result of the proposal, given the distance of the proposal from its boundary together with its single storey height above ground and the

hedge and tree planting on the boundary, I do not consider that the outlook from the house or the garden would be materially harmed. More significantly the effect on openness to the east elevation between the appeal proposal and the consented schemes would be significantly less. Equally, given the separation of other neighbours and the degree of planting around the site, I do not consider that the living conditions of surrounding occupiers would be materially harmed by the proposal, including in terms of light pollution. I note that the Council reached similar conclusions in these respects.

Conclusion

28. For the reason given above, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR