
Appeal Decision

Site visit made on 27 June 2017

by Alex Hutson MATP CMLI MArborA

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

Decision date: 4 July 2017

Appeal Ref: APP/L3625/D/17/3166853

Yew Tree Cottage, Garden Walk, Hooley CR5 3RE

- 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 Mahbod Mohammadi against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/02222/HHOLD, dated 7 September 2016, was refused by notice dated 21 November 2016.
 - The development proposed is erection of self-contained one bedroom granny annex within the footprint of the swimming pool.
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Decision

1. The appeal is allowed and planning permission is granted for erection of self-contained one bedroom granny annex within the footprint of the swimming pool at Yew Tree Cottage, Garden Walk, Hooley CR5 3RE in accordance with the terms of the application, Ref 16/02222/HHOLD, dated 7 September 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: MM/16 10; MM/16 100; MM/16 101; MM/16 102; MM/16 103; MM/16 104; MM/16 105; and MM/16 106.

Preliminary matter

2. The description of the proposed development on the application form makes reference to the demolition of the existing swimming pool enclosure. However, as demolition is not development, I have excluded this wording from the description within the banner heading above.

Main issues

3. The main issues 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; and
 - If the proposal is inappropriate development, whether or not there are other considerations which, together, clearly outweigh the harm to the Green Belt,

and any other harm, and which amount to very special circumstances which would be necessary to justify the proposal.

Reasons

Inappropriate development

4. The appeal site comprises Yew Tree Cottage, a large two storey dwelling, and its front and rear gardens. It is located within the Green Belt as defined within the Reigate and Banstead Borough Local Plan 2005. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. Replacement buildings in the Green Belt are inappropriate, unless the new building is in the same use and is not materially larger than the one it replaces.
5. Yew Tree Cottage has a swimming pool within its rear garden. The swimming pool is covered by a glass enclosure. Whilst this enclosure is retractable, it is likely to enclose the swimming pool for the majority of the year and could reasonably be defined as a building. The proposal would demolish the glass enclosure and would erect a self-contained, one bedroom annexe within the footprint of the swimming pool. Thus, the proposal would represent a replacement building. The dimensions of the annexe would be similar to the dimensions of the glass enclosure and, as such, it would not be materially larger than the building it would replace. In addition, the use of the swimming pool is ancillary to the enjoyment of Yew Tree Cottage. I consider that this would also be the case in respect of the annexe. Thus, it would be in the same use as the building it would replace, for the purposes of Paragraph 89 of the Framework.
6. Consequently, the proposal would comply with the listed exceptions as set out in Paragraph 89 of the Framework, including in respect of replacement buildings in the Green Belt. It would therefore not be inappropriate development within the Green Belt.
7. The Council cites conflict with Policy Co 1 of the Reigate and Banstead Borough Local Plan 2005. This policy allows the replacement of a dwelling provided that it does not result in a materially larger dwelling. However, on the basis that this policy refers to replacement dwellings and not replacement buildings, it is inconsistent with the aims and objectives of the Framework. Thus, whilst there would be conflict with this policy insofar as the proposal is not for a replacement dwelling, having regard to Paragraph 215 of the Framework, I afford this policy limited weight.

Openness

8. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. Nevertheless, on the basis that I have found the development not to be inappropriate development within the Green Belt, it is not necessary for me to assess the impact of the development on the openness of the Green Belt.

Other matters

9. The appeal site lies within the Surrey Hills Area of Outstanding Natural Beauty (AONB). The Council and the County Council raise no concerns in respect of

the impact of the proposal on the landscape and scenic beauty of the AONB. On the basis that it would be well contained within the rear garden, would utilise natural materials and would not be easily visible from outside of the appeal site, I too have no concerns in this regard.

Conditions

10. I have had regard to the planning conditions suggested by the Council. In addition to the statutory time limit condition, a condition specifying the relevant plans is necessary as this provides certainty. However, the relevant plans clearly indicate the intended materials to be used in the construction of the external surfaces, including fenestration and roof, of the development hereby permitted. As the development is required to be carried out in accordance with these plans, I consider that a separate condition requiring further details of materials to be submitted would be both onerous and unnecessary.

Conclusion

11. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have identified that the development would not be inappropriate development within in the Green Belt and consequently no very special circumstances are necessary to justify a planning permission.
12. Therefore, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed.

Alex Hutson

INSPECTOR