

Appeal Decision

Site visit made on 15 August 2017

by J Bell-Williamson MA MRTPI

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

Decision date: 8 September 2017

Appeal Ref: APP/M2270/D/17/3176858

10 Holmewood Ridge, Langton Green, Royal Tunbridge Wells TN3 0BN

- 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 Sheppard against the decision of Tunbridge Wells Borough Council.
 - The application Ref 17/00098/FULL, dated 11 January 2017, was refused by notice dated 7 March 2017.
 - The development proposed is independent timber decking.
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Preliminary Matter

1. The development has already been undertaken and, therefore, I have dealt with this appeal on the basis that it involves an application for retrospective permission.

Decision

2. The appeal is allowed and planning permission is granted for independent timber decking (retrospective) at 10 Holmewood Ridge, Langton Green, Royal Tunbridge Wells TN3 0BN. The permission is granted in accordance with the terms of the application, Ref 17/00098/FULL, dated 11 January 2017, subject to the following condition:
 - 1) A 1.8m high screen must be positioned on the east elevation of the decking along its full depth and shall be obscure glazed and shall subsequently be maintained as such.

Main issues

3. As the appeal site is within the Green Belt the main issues include:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
 - the effect on the Green Belt with regard to openness; and
 - if the proposal would be inappropriate development, whether the harm to the Green Belt 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.
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4. The other main issue is the effect of the proposal on the living conditions of the occupiers of Ludlow House, with regard to privacy.

Reasons

5. The appeal property is a detached dwelling set in a large plot along a private road, which includes similar property types. The bottom half of the large rear garden is situated within the Green Belt and includes a log cabin that was permitted as a transportable annexe through an application for a certificate of lawful development (reference 15/508971/LAWPRO). While the decking is intended to serve the use of this annexe building, it is physically independent from it.

Whether the proposal is inappropriate development

6. The National Planning Policy Framework (the Framework) makes clear in paragraph 89 that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. None of these refers explicitly to the type of development proposed here. The Council refers to Policy MGB1 of its Local Plan 2006 and to Core Policy 2 of its Core Strategy 2010, both concerning development in the Green Belt. While these pre-date the Framework, they are generally consistent with it, but like the national guidance they do not specifically address this type of development.
7. The use of the log cabin and related decking is intended to be ancillary to the established residential use of No 10. In these circumstances, the decking could be capable in principle of being considered as an extension to the existing dwelling, in accordance with the third bullet of paragraph 89, given that it would be part of a domestic adjunct to the dwelling. In this regard the Framework requires extensions not to result in disproportionate additions over and above the size of the original building.
8. However, my understanding is that the main dwelling is not located within the Green Belt. Nonetheless, in the absence of any specific policies or guidance, it is reasonable to assess the proposal in this case against the Framework's requirement for additions to property not to be disproportionate. Assessing proportionality is primarily an objective test based on size and in this case it is most instructive to consider the physical size and scale of what is proposed, including the degree of bulk or mass that might be added.
9. The decking is in its own right a relatively large wooden structure, including a balustrade and two sets of steps. It is quite high off the ground, reflecting the sloping nature of the rear garden. Its scale and overall effects, however, are seen in the context of its immediate surroundings. It is clearly subordinate and proportionate in scale to the cabin that it currently serves and in this regard it does not add substantive bulk or mass either on its own or to the development that already exists. Moreover, it is sited within a large residential curtilage and, as such, it does not appear as a disproportionate addition in its setting.
10. Therefore, for the above reasons, I conclude that the proposed decking would not be inappropriate development in the Green Belt and it would not conflict with the purposes of the Framework or the development plan policies referred to above.

Effect on Green Belt openness

11. The Framework states that the essential characteristics of Green Belts are their openness and their permanence. I have found above that the decking would not add substantive bulk or mass to the garden. It would not be visible from the public realm and due to the extent of boundary planting and position behind the cabin it would not be prominent in views from neighbouring properties. Moreover, given the length of the gardens and distance from neighbouring properties there would be a good degree of separation. For these reasons, I conclude that the proposal would not have a harmful effect on the openness of the Green Belt in this location.

Living conditions

12. The decking is situated directly next to the shared boundary with the neighbouring property, Ludlow House. In the absence of the decking, the depth of the garden and height of the boundary hedge would maintain privacy between the properties. However, the height of the decking relative to the existing hedge would enable overlooking of the large rear garden to Ludlow House. It is not certain from the submitted plans or site inspection that further growth of the hedge or its permanence are guaranteed and, therefore, there is insufficient certainty that privacy would be maintained.
13. I note in this regard that the Council proposes a condition in the event of the appeal's success that would require an obscured glass screen to be erected on the decking's eastern elevation to maintain privacy. This would not be such a prominent feature in its own right that it would cause harm and, therefore, in combination with existing planting provides greater certainty about further privacy. It is not clear, however, from the appeal submissions that the appellants or interested parties were aware that this condition had been suggested by the Council. Consequently, the relevant parties were given the opportunity to comment on it and I have had full regard to the single response made by an interested party.
14. Given the substantive separation between the rear of No 11b on the other side of the appeal property and the decking and screen, the screen would not be a prominent feature in views from this property. Therefore, while I have had full regard to the representations made on this matter, they do not lead me to reach a different view that with the screen in place this would address the concerns about loss of privacy and, accordingly, I have imposed the suggested condition.
15. On this basis, I conclude that with the necessary condition in place the proposal would not have an unacceptably harmful effect on the living conditions of the occupiers of Ludlow House, with regard to privacy. Consequently, it is not contrary to Policy EN1 of the Tunbridge Wells Borough Local Plan 2006, which amongst other matters, requires development not to cause significant harm to the residential amenities of adjoining occupiers. This policy is broadly consistent with the National Planning Policy Framework. Core Policies 4 and 5 of the Tunbridge Wells Core Strategy 2010, also referred to by the Council, are less relevant to this case as they concern, respectively, sustainable design and construction, and landscape, environmental and heritage protection and enhancement.

Other Matters

16. I have had full regard to other matters raised by interested neighbouring occupiers. As already noted, the long rear gardens along Holmewood Ridge and the position of the decking towards the end of No 10's garden means that there are generous separation distances between it and neighbouring dwellings. Moreover, it would be possible to see the rear of neighbouring properties from No 10's garden even without the decking in place. As such, there would be no loss of privacy resulting from the decking from overlooking of rear windows of neighbouring dwellings.
17. I note the Council's comment that the appeal property is situated outside the nearest Area of Outstanding Natural Beauty, which is situated to the south-west. Therefore, there would be no harm to this protected area. I have no substantive evidence to support claims that the decking will not remain physically independent, that it will result in vermin occupying the space beneath it, or that it will lead to noise or disturbance to neighbours. Concerns about use of the cabin as a separate residential unit from No 10 are not within the scope of this appeal, which only concerns the proposed decking. Therefore, while I have had full regard to these other matters they do lead me to reach a different overall conclusion.

Overall Conclusion

18. I have found above that the proposal would not be inappropriate development in the Green Belt. Moreover, there would be no harmful effects on the openness of the Green Belt. With an appropriate condition in place to protect the privacy of neighbouring occupiers, there would be no harm with regard to the other main issue. Consequently, there is no conflict with the Framework or relevant development plan policies and so the appeal should succeed.

Conditions

19. As the development has been carried out none of the standard conditions concerning implementation are necessary. For the reasons already given, a condition requiring a privacy screen is needed and has been imposed.
20. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

J Bell-Williamson

INSPECTOR