



Appeal Decision

Site visit made on 7 January 2020

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020

Appeal Ref: APP/D3640/D/19/3241833

Chobham Farm Cottage, Philpot Lane, Chobham, Woking GU24 8HD

- 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 Jonathan Welch against the decision of Surrey Heath Borough Council.
 - The application Ref 19/0674, dated 12 August 2019, was refused by notice dated 8 October 2019.
 - The development proposed is new double garage outbuilding to replace demolished coach house.
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Decision

1. The appeal is allowed and planning permission is granted for new double garage outbuilding to replace demolished coach house at Chobham Farm Cottage, Philpot Lane, Chobham, Woking GU24 8HD in accordance with the terms of the application, Ref 19/0674, dated 12 August 2019, 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 plan: 16 495 PL202A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the external surfaces of Chobham Farm Cottage.
 - 4) The development hereby permitted shall not be occupied until the tennis court and its fencing have been permanently removed from the site and a scheme for the landscaping of the area has been submitted to and approved in writing by the local planning authority.
 - 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Procedural matter

2. The application form, decision notice and appeal form all included the codicil "(resubmission of application 19/0270)" in the description of the proposal. This

phrase is irrelevant to that applied for and the subject of this appeal and I have therefore not included it in the heading or the formal decision.

Main Issue

3. As the site is in the Green Belt the main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework).

Reasons

4. Neither the Council nor the appellants have referred to any development plan policies in respect of the Green Belt.
5. Paragraph 145 of the Framework indicates that the construction of new buildings should be regarded as inappropriate development in the Green Belt unless covered by one of a number of exceptions. Both the Council and the appellant have considered the proposal as if an extension of a building, but I am not necessarily sure that this is correct as policy wording should be given its objective meaning.
6. The proposal here is for a detached outbuilding to be used as a garage and store. As a detached building it would be physically separate from the main house and it would not physically extend that building. On this basis it would represent a new building in the Green Belt rather than as an extension or alteration to an existing building.
7. If, as the main parties have done, the proposal was to be considered as an extension or alteration of a building then it would be necessary to consider whether it would or would not result in disproportionate additions over and above the size of the original building.
8. The Glossary to the Framework indicates that the original building is defined as it existed on 1 July 1948 or, if constructed after that date, as it was originally built. It is clear from the planning history of the site provided by the Council that the original dwelling as so defined has already been extended. The appellants do not dispute these figures, but rather make the case that the Council Officer report refers to the extension as being "subservient" to the existing dwelling. Whether this is the case is not the point, since the consideration should be against the original dwelling.
9. On the basis of the figures provided, if the proposal were to be considered as an extension to the adjoining dwelling, it would be, together with the extensions previously constructed, disproportionate to the original dwelling.
10. The appellant notes that there was previously an outbuilding in this approximate location; this is referred to in the description set out in the heading. However, from what I understand, the floor area of that building was included within the calculation which allowed the Council to grant planning permission for a separate building on the site next to the appeal property which I saw being constructed at the time of my site visit. To use that floor area for the consideration of this proposal would represent double counting and this would not be proper.
11. The appellants also make the case that the proposal would replace a tennis court to the southeast of the dwelling. They therefore consider this thus would

represent the replacement of a building in the same use, on the basis that a fence around the court creates a building.

12. The Courts have held¹ that a building must have size, permanence and physical attachment. Due to the presence and amount of lichen and moss on the surface of the court area it has clearly been there for some time and is permanent. The court and its fence are attached to the ground and have significant size. The tennis court and its fencing would, therefore, represent a building. Both the tennis court and the proposal would be in the same use; that is purposes incidental to the enjoyment of the dwellinghouse as such. Consequently, the next test is whether the proposal would be not materially larger than the building it replaces.
13. The Courts have also held² that this test is primarily an objective one by reference to size, but this will depend on the circumstances of the particular case. While in most cases the floor space will be the starting point some regard can be held to other factors such as bulk, height, mass and prominence.
14. A tennis court does not have a floor space as such but does cover an area of ground and the proposal would cover a significantly smaller area. In terms of height the proposed building would be similar to the fencing, but the proposal would have significantly greater bulk, mass and prominence due to its solid rather than transparent nature. Taken together, I conclude that the proposal would represent the replacement of a building which is in the same use and would not be materially larger than the one it is to replace. As such it would not represent inappropriate development in the Green Belt.

Conditions

15. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
16. I have also imposed a condition requiring the external materials to match those of the existing property to ensure that the proposal is in keeping with the character and appearance of the area.
17. In order to ensure that the proposal is a replacement for the tennis court as a building, it is necessary that the tennis court and its fencing is removed before the proposal is first used and the area landscaped. This landscaping thereafter should thereafter be retained.
18. For completeness, the appellants offered to cease the use of the southeastern part of the application site for purposes ancillary to the occupation of the dwelling in the event that I concluded that the proposal did represent inappropriate development as part of any very special circumstances necessary to permit the proposal. As I have found the proposal would not represent inappropriate development this is not needed.

¹ *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385, endorsed by the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 10275

² *R (oao Heath and Hampstead Society) v Camden LBC* [2007]

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR