



Appeal Decision

Site visit made on 20 January 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2020

Appeal Ref: APP/Y3615/D/19/3225122

Willow Barn, Effingham Common, Effingham, Surrey KT24 5JD

- 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 Butler against the decision of Guildford Borough Council.
 - The application Ref 18/P/01728, dated 2 September 2018, was refused by notice dated 27 December 2018.
 - The development proposed is described as 'single storey extension to side and front'.
 - This decision supersedes that issued on 20 June 2019. That decision on the appeal was quashed by order of the High Court.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision it has adopted The Guildford Local Plan (LP)¹. In so doing, Policies RE2 and H9 of the Guildford Borough Local Plan 2003 have been superseded by Policy P2 of the LP. Policies G1 (3) and G5 of the 2003 Local Plan have been retained and continue to form part of the development plan. It is incumbent upon me to base my decision on extant planning policies and this is what I have done.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt, and its effect on the openness of the Green Belt;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of the occupants of Willow Cottage, with particular reference to outlook; and
 - If the proposal would be inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

¹ The Guildford Local Plan: Strategies and Sites 2015 – 2034 Adopted 25 April 2019

Reasons

Whether or not the proposal would be inappropriate development

4. Policy P2 of the LP is concerned with development in the Green Belt. It states that the construction of a new building in the Green Belt will constitute inappropriate development unless the building falls within the list of exceptions identified by the National Planning Policy Framework (the 'Framework'). Paragraph 145 of the Framework lists the exceptions, and this includes the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building.
5. Policy P2 includes a definition of the term 'original building', which is the building as it existed on 1 July 1948; or if no building existed on 1 July 1948, then the first building as it was originally built after this date. It is a point of agreement between the Council and appellant that there was a building present at the appeal site on the 1 July 1948 and this was not the existing building. As such, the original building is not the existing building.
6. It is not possible to be entirely sure of the precise size of the original building because a measured survey is not before me and cannot be undertaken as it has been demolished. Nevertheless, the Council has referred to an Officer's report dating from 1992, which assessed the appropriateness of the building now present on the site. This described the original building as being 48 square metres (sqm) in floor area. A pottery shed of 23 sqm was also added, as it was taken as forming part of the original building. The appellants' have not disputed this assessment, which broadly chimes with historical maps. As such, it is likely the original building had a floor area in the region of 60-70sqm.
7. The appellants' own figures state that the existing structure is 149.4sqm. This figure does not include a garage that was approved in 1992 at the same time as the existing house. A concrete base appears to have been laid for the garage but there have been no further works. As such, the floor space of the existing building as it currently stands is already more than double the original building. There is no dispute that the appeal scheme would add another 60sqm. Thus, the cumulative increase in floor area, when compared to that of the original building, would be considerable and disproportionate. This would be the case even if the approved garage had been constructed.
8. An assessment of what constitutes a disproportionate addition goes beyond mathematical calculations. The matter also needs to be considered spatially, with reference to the massing, scale and general visual perception of the proposal. As the original building is no longer present, I must turn to the available evidence in order to form a judgment. Historic mapping, supported by an historic photograph, indicates that the original building was a modest two storey semi-detached cottage located in the north eastern corner of the plot. Once extended, the existing building, which is two storeys in height, would have a considerably larger footprint than the original building. It would also have a much greater depth and width, the latter spanning nearly the entire plot. Thus, the much greater massing when compared to the original building would result in a disproportionate addition when this is considered spatially.
9. In conclusion, the appeal scheme would be a disproportionate extension and therefore the proposed development would not meet the exceptions in Policy

P2. It would therefore be inappropriate development in the Green Belt which would, by definition, harm the Green Belt.

The effect of the proposal on the openness of the Green Belt

10. The proposal would result in a reasonably large extension occupying an area to the side of the dwelling that is currently open, being free of development save for low level decking. This would inherently diminish and thus modestly harm the openness of the Green Belt and would do so even if the garage had been completed'. This is because the forward projection of the extension would be visible from the north, including a public footpath. Accordingly, there would be a clear perception from publicly accessible vantage points that the building had been enlarged and the openness of the Green Belt eroded. Moreover, the extension would result in the building spanning nearly the entire width of the plot, which would erode the space with Willow Cottage and further limit visual permeability through the site.
11. As such, the proposal would result in some modest harm to the openness of the Green Belt. The Framework advises that openness is an essential characteristic of the Green Belt, the fundamental aim of which is to keep land permanently open. The harmful loss of openness caused by the appeal scheme would be at odds with this fundamental aim.

The effect of the proposal on the character and appearance of the area

12. The appeal site is located within a small cluster of dwellings set amongst woodland on the edge of Effingham Common. There is a rural, ad hoc character to the cluster with the properties being of differing sizes and styles and occupying plots of variable dimensions. There is no consistent pattern or layout to the cluster, although dwellings tend to address the street.
13. The outer wall of the proposed extension would sit on the boundary with Willow Cottage and therefore it would erode the existing gap between these properties. However, the gap is not a particularly important feature in the street scene given the ad hoc arrangement described in the preceding paragraph. Moreover, a single storey garage has been constructed close to the side of Wytecot and Willow Cottage has been extended up to the eastern boundary of its plot. In this respect, the encroachment of the extension up to the side boundary would not, in this instance, appear discordantly cramped or harmful to the locally varied pattern of development. Moreover, the single storey form of the extension and the pitch of the roof away from the boundary would provide a sense of separation between Willow Barn and Willow Cottage at first floor level. This arrangement would prevent visual terracing and enable views of the mature trees in the background of the dwellings to be had.
14. The Council's Residential Extensions and Alterations Supplementary Planning Document 2018 (SPD) generally discourages front extensions as they can be prominent within a street scene and upset building lines. The forward projection of the proposed extension would result in it being visible but not unduly prominent due to the set back of Willow Barn and the position of properties either side, which will provide some screening. Moreover, the extension would not upset a notional building line as it would not be sited beyond Willow Cottage or Wytecot. As such, the proposal would not offend the underlying reasons in the SPD for generally discouraging front extensions.

15. The single storey scale of the proposed extension would enable it to be subservient to the host building and Willow Cottage. The use of matching cedar cladding would also visually integrate it with the existing building, which itself stands out due to its form, method of construction and use of materials. Moreover, the layout would have a clear rationale, as it would help to create and reinforce a courtyard appearance focussed on the willow tree. In conclusion, the proposed development would not harm the character and appearance of the area and therefore a conflict with Policy D1 of the LP and Policy G5 of the 2003 Local Plan, would not occur.

The effect on the living conditions of the occupants of Willow Cottage

16. The tallest part of the extension would run parallel to the flank wall of Willow Cottage, which has no openings. As such, the forward most part of the extension would not be particularly apparent from within the garden or visible from within the house. Consequently, there would be no harmful impact from this part of the development upon the outlook from Willow Cottage.
17. The rest of the extension would project past the rear elevation of Willow Cottage to a depth level with the rear elevation of Willow Barn. The existing close boarded fence in place along the boundary would be replaced by the outer wall of the extension, which would be of at the same height when measured to eaves level. In some respects, the extension would have the appearance of a garden wall because the roof would pitch away from the boundary at a shallow angle. As such, the side extension, although visible to the occupants of Willow Cottage, would not be unduly tall or overbearing. Thus, it would not harmfully enclose the garden of Willow Cottage or interrupt the outlook from this property, which already includes the tall gable of Willow Barn.
18. In conclusion, the appeal scheme would not harm the living conditions of the occupants of Willow Cottage and therefore a conflict with Policy G1(3) of the 2003 Local Plan, supported by the SPD, would not occur.

Other Considerations

19. The appellants are of the view that the appeal scheme would not be inappropriate development in the Green Belt if the Framework's definition of an original building is applied, this being *a building as it existed on the 1 July 1948, or if constructed after 1 July 1948, as it was built originally*. The appellants suggest that the existing building was constructed after 1948 and therefore it is the original building. However, I do not share this interpretation, preferring the Council's instead because it has been supported in the courts² and it is set out in Policy P2 of the LP, which was found sound by an Inspector upon examination. Moreover, the Council's definition of original building addresses past inconsistencies in the interpretation of the term. Policy P2 seeks to remedy this by providing greater certainty.
20. Moreover, the appellants' interpretation would jar with the general aims of the Green Belt, as it would permit a building to be replaced by a larger structure, which in turn could then be replaced by another larger structure. This would result in a cycle of enlargement and thus a creeping loss of openness that would undermine the aims of the Green Belt over time. This concern is demonstrated within the appeal scheme which, if permitted, would result in a

² *Dacorum Borough Council v Secretary of State for Communities and Local Government* [2009] EWHC 304 (upheld on appeal: [2009] EWCA Civ 1494)

much larger building occupying the site than that present in 1948. Thus, Policy P2 has a second aim of preventing a cycle of development creep.

21. The appellants' own evidence supports the Council's justification, as it demonstrates that the definition of original building has been grappled with by Inspectors and Council Officers with differing interpretations. In considering these previous decisions³ it is important to note that they all relate to cases that pre date the adoption of Policy P2 and are therefore of limited weight in any event given this significant change in circumstance.
22. The appellants' evidence also confirms that development creep has occurred, referring to several dwellings locally that have cumulatively increased in floor space by more than 100% when compared to the original properties as they stood in 1948. This serves to demonstrate that the Council's approach, in seeking to prevent further development creep, has a sound and rational basis and is not predicated on a theoretical concern. As such, the definition of original building in Policy P2 is not illogical. Instead, it is helpful in providing certainty and clarity. It also has the underlying policy aim of protecting the openness of the Green Belt, which is a fundamental aim of the designation.
23. There may be some circumstances when applying the definition of an original building in Policy P2 may prove difficult, for example if the original building has been demolished and there is no evidence of its size. However, this will be rare. It will often be possible to consider records, maps and old photographs, which will help to give an indication of the size of the original building. As such, the definition is not inherently incapable of being applied.
24. Permitted development rights were removed through the imposition of a planning condition when the existing building was originally granted. The Council subsequently approved an application to remove this condition in 2001. It is unclear why. The property now has permitted development rights and can be extended. That said, I have not been presented with substantive evidence to suggest the appellants could extend the property utilising permitted development rights in a similar way to that proposed. I therefore afford this point limited weight.
25. Similarly, the appellants' extant permission to erect a garage in their front garden broadly in the location of part of the proposed extension is a point of limited weight. This is because there is nothing before me to suggest works would re-commence in the event the appeal was unsuccessful. In any event, the proposed extension would be larger than the garage.

Whether there would be Very Special Circumstances

26. Policy P2 of the LP states that inappropriate development will not be permitted unless very special circumstances can be demonstrated. 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. This approach is consistent with the Framework.
27. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in modest harm to the openness of the Green Belt.

³ Including APP/Y3615/A/08/2070892, APP/Y3615/D/18/3209118 and APP/Y3615/A/08/2070046 and all of the appeal decision referred to by Planit Consulting in their email of 16 January 2020

Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt. On the other hand, the other considerations I have identified are of limited weight in favour of the proposal.

28. As such, the harm to the Green Belt is not clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development do not exist.

Conclusion

29. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has failed.

Graham Chamberlain
INSPECTOR