
Appeal Decision

Site visit made on 28 January 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2020

Appeal Ref: APP/C3620/D/19/3239086

Oakdene, Henfold Lane, Beare Green RH5 4RP

- 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 Thurgood against the decision of Mole Valley District Council.
 - The application Ref MO/2019/0917/PLAH, dated 17 May 2019, was refused by notice dated 25 July 2019.
 - The development proposed is described as 'creation of a dormer window and front porch to the dwellinghouse and an extension to the garage (Buildings 1 and 3) and erection of a domestic outbuilding (Building 2)'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application has been submitted as a retrospective proposal. Furthermore, I have used the description of development provided on the appellant's appeal form as this provides a more accurate description of the appeal scheme. The appeal has been determined on this basis.
3. For the sake of clarity, I have used the appellant's annotations on drawing 1902-01-PL06a to identify the various components of the proposal, consistent with the description of the development above.
4. I noted on my site visit that the structure linking 'Building 1' and 'Building 3', referred to in both parties' evidence, has been removed and does not form part of the proposal before me.

Main issues

5. The main issues are:
 - i) whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
 - ii) the effect of the proposal on the openness of the Green Belt;
 - iii) the effect of the proposal on the character and appearance of the surrounding area; and
 - iv) if the development is inappropriate, 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

Whether the proposal is inappropriate development in the Green Belt

6. Policy CS1 of the Mole Valley Local Development Framework Core Strategy – Adopted October 2009 (CS) sets out that in locations such as this development will be considered in light of the provisions of PPG2 'Green Belts'. However, PPG2 has been superseded by the National Planning Policy Framework (the Framework) and this therefore forms the main policy consideration.
7. The Framework states at paragraph 145 that the construction of new buildings in the Green Belt is inappropriate development. It sets out a number of exceptions a) to g), inclusive. Exception c) allows for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Furthermore, exception d) allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
8. The appellant argues that 'Building 2' has replaced a previous building and provided a photograph pertaining to show it, and that it was of a similar size and location. However, the building no longer exists. Even if it did exist and were replaced by 'Building 2', I do not have sufficient evidence to reasonably conclude that the replacement was not materially larger. The appellant argues that in this event it should be considered as a domestic adjunct and exception c) applies. However, the Council do not consider that any of the exceptions apply to 'Building 2'.
9. Therefore, it is necessary for me to assess if 'Building 2' may be considered as part of the dwelling. I have had regard to the principles set out in case law¹ which detail that it is a matter of fact and degree as to whether a detached structure may be part of a dwelling. I have had regard to the proximity of 'Building 2' to the dwelling, the physical relationship between them and that they share common outside space. Furthermore, I have noted the internal facilities within both buildings and the reliance of 'Building 2' on the dwelling for some needs. Therefore, for the purposes of the Green Belt assessment, I conclude that 'Building 2' may be considered a domestic adjunct to the dwelling.
10. In regard to 'Building 3' I have considered the parties' submissions and I have applied the principles set out in case law. Similarly to Building 2, for the purposes of the Green Belt assessment, I find that this structure is a domestic adjunct. This is because of its close proximity, the shared outside space and the facilities contained within. Furthermore, in support of this conclusion, I note that 'Building 1' and 'Building 3' together form the original dwellinghouse. Additionally, the appellant has described Building 3 as a 'wholly dependent outbuilding' and suggested conditions could be imposed to ensure that all buildings are used ancillary to the main dwelling. Finally, I note that the extension of 'Building 3' has provided additional domestic storage only.
11. The proposal also details extensions and alterations to 'Building 1' including a new porch and a flat roof dormer window. The parties agree that these matters

¹ Sevenoaks District Council v SSE and Dawe [1997]

should be considered under exception c). I have no reason to disagree with this. Therefore, for the above reasons, I find that all of these works, for which permission is being sought retrospectively, need to be assessed cumulatively against exception c) set out at paragraph 145 of the Framework.

12. The original building in this case is the single storey house and its flat roof garage. It would have been a modest and well-proportioned dwelling. I find that the dormer window extension has a great mass and bulk which significantly increases the size of the building at first-floor level. Furthermore, I find that the addition of 'Building 2' extends the footprint of the original building to the north-west, whilst the flat roof extension to 'Building 3' extends the footprint to the east. Additionally, the pitched roofs add to the bulk and size of the built form. I find that cumulatively the proposals' elements would result in disproportionate additions over and above the size of the original building.
13. In reaching this conclusion I have had regard to the Council document 'The Green Belt: A Guide for Householders'. However, I note that this is dated September 2004 and I have no details as to the level of consultation it went through or its status. As such, I afford the document limited weight.
14. Therefore, on the first main issue I find that the proposal would be inappropriate development within the Green Belt for the purposes of the Framework and development plan policy. The proposal would be contrary to Policy CS1 of the CS, Policy RUD7 of the Mole Valley Local Plan – Adopted 12 October 2000 (LP), and Section 13 of the Framework. These policies seek to protect the Green Belt from inappropriate development.

The effect on the openness of the Green Belt

15. As set out above, the proposal would increase the mass and bulk of the built form at the site. It would extend the footprint of the dwelling to the east and north-west. Additionally, it would add to the first floor of the dwelling. Whilst I note the presence of existing landscaping to the north and west boundaries of the site, it has an open character. The hedges mitigate the visual impacts of the development to a degree, but they do not mitigate the spatial dimension of openness.
16. Therefore, on the second main issue I find that the proposal would harm the openness of the Green Belt contrary to Section 13 of the Framework. This seeks to ensure that Green Belt land is kept permanently open.

Character and appearance of the surrounding area

17. The appeal site is a residential property, located within a rural countryside position, at the end of a private track that serves other residential properties. The Council state that the overall mass of 'Building 2' and 'Building 3', and the associated hard standing would represent encroachment into the rural scene. Furthermore, they refer to the dominant and incongruous form of the dormer window. I note that the hard standing is not part of the development proposal before me. Additionally, the parties agree that the dormer window constitutes permitted development. Furthermore, the other structures are single-storey and utilise a sympathetic palette of materials to the main dwelling. However, they would erode openness at this point which is an important characteristic.

18. Therefore, on the third main issue I find that the proposal would harm the open character of the surrounding area. In this regard, the proposal would conflict with Policies RUD7, RUD9, ENV22 and ENV23 of the LP and Policy CS13 of the CS. The aims of which include ensuring that development respects and enhances the character of the area. However, given the degree of harm I afford this limited weight.

Other considerations

19. I have found that the proposal would constitute inappropriate development in the Green Belt and would have an adverse effect on its openness. I have also found that there would be harm to the open character of the surrounding area. Paragraph 144 of the Framework requires that substantial weight be given to any harm to the GB. It also states that the very special circumstances required to justify a grant of planning permission for inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
20. The parties agree that the dormer window would constitute permitted development under The Town and Country Planning (General Permitted Development) Order. I have no reason to disagree and afford this significant weight in any balance. Furthermore, the appellant indicates that the dormer facilitates first floor accommodation that is required to meet the particular needs of their stepdaughter. They state that this should weigh in favour of the scheme. However, given that the Council agree that the dormer is permitted development, I see no reasonable reason why the accommodation it provides would be lost. Therefore, I afford the personal circumstances limited weight.
21. Additionally, I have noted the correspondence from Caple Parish Council indicating their support. However, I do not consider that their views are determinative. I afford limited weight to the lack of any third-party objection.
22. Therefore, in conclusion on the final main issue I find that the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Other matters

23. The appellant has indicated that the Council ought to have issued a split decision. Therefore, I have considered this option and concluded that it would not be appropriate. This is because all the works have taken place, and I have considered the effects of the development cumulatively. Furthermore, it is beyond the scope of this appeal under Section 78 of the Town and Country Planning Act 1990 to consider which parts, or combinations thereof, if any, should be regularised. Additionally, in light of this Decision the appellant has a right to make further submissions.

Conclusion

24. For the reasons given above I conclude that the appeal should be dismissed.

James Taylor

INSPECTOR