

Appeal Decision

Site visit made on 1 October 2020

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03/11/2020

Appeal Ref: APP/R3650/D/20/3249262

The Mill Cottage, Waverley Lane, Farnham, GU9 8ES

- 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 M Telling against the decision of Waverley Borough Council.
 - The application Ref WA/2019/0049, dated 19 December 2018, was refused by notice dated 29 January 2020.
 - The development proposed is the erection of a garden pavilion following the removal of an existing swimming pool and pergola.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form gives the address of the property as 'Mill Cottage'. The appeal form gives the address as 'Mill House (formerly Mill Cottage)'. I have recorded the address as it was given on the application form but am satisfied that Mill Cottage and Mill House are one and the same property.

Main Issues

3. Mill Cottage is a Grade II listed building and is located within the Waverley Abbey Conservation Area (CA), an Area of Outstanding Natural Beauty (AONB), an Area of Great Landscape Value (AGLV), and the Green Belt. The proposal is for the erection of a detached outbuilding that would stand some distance away from the dwelling within the property's extensive grounds. The Council is satisfied that there would be no harm to the setting of the listed building or to the character or appearance of the CA. I have no reason to disagree and am satisfied that the significance of each of these heritage assets would be unaffected. Likewise, I share the Council's view that there would be no harm to the special qualities of the AONB and AGLV. The main issues therefore are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;

- The effect of the proposal on the openness of the Green Belt; and
- If it is inappropriate development, 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.

Whether the proposal would be inappropriate development in the Green Belt

4. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 states that the construction of new buildings should be regarded as inappropriate development unless it is for one of seven specified exceptions.
5. Policy RE2 of the Waverley Borough Local Plan Part 1 (LP Part 1), adopted in 2018, states that the Metropolitan Green Belt will be protected against inappropriate development in accordance with national policy.
6. The appeal proposal seeks to replace an existing raised outdoor swimming pool and associated timber garden pergola building with a garden pavilion building to be used for purposes incidental to the enjoyment of the dwelling. The appellant has argued that the proposed building would not amount to inappropriate development in the Green Belt as it would satisfy the exceptions b), d), and g) within paragraph 145 of the Framework.
7. Exception b) is the provision of appropriate facilities (in connection with the existing use of the land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
8. The appellant has argued that the building would satisfy the requirement of an 'appropriate facility for outdoor recreation'. I disagree. The development would create an internal space with the floor plans showing an indoor dining and lounge area, together with a toilet and, what appears to be, a shower facility. In my view the principal purpose of the building would be for indoor enjoyment albeit incidental to the dwelling. I can identify no specific outdoor recreation pursuit that would be facilitated by its provision. However, even if it was to be accepted that the building would be an appropriate facility for outdoor recreation, the exception test requires the openness of the Green Belt to be preserved.
9. The existing swimming pool is on a raised patio area that is set into the natural gradient of the land with a modest retaining wall to one side. The land is clearly not free from development, but the existing swimming pool is mostly underground and has little visual impact within its setting. The current arrangement has only a very limited affect upon openness, derived principally from the raised portion of the patio and from the timber pergola, which itself is modest in size, with only a small footprint and limited visual bulk or perceived sense of permanence. In contrast, the proposed building would be significantly larger than the pergola building. It would be entirely above ground and would occupy space that currently has the perception of being largely open. Despite

the glazed walls, use of timber cladding in part, and the sedum roof, the proposed pavilion would appear as an obvious addition of permanent built form and neither the quality of the architecture nor the sympathetic use of materials would mitigate the loss of openness that would result. Overall therefore, the failure of the proposal to preserve openness means that it would not satisfy the exception tests of criterion b).

10. Exception g) is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. The greater impact upon openness identified above would disqualify the proposal from satisfying the exception tests of criterion g).
11. Exception d) is the replacement of a building, provided that the new building is in the same use and that it does not result in disproportionate additions over and above the size of the original building. Such a judgement for this exemption is separate to any consideration of the impact upon openness of the Green Belt.
12. A building used for indoor seating and dining would in my view remain ancillary to use of the dwelling and therefore within the same use as the existing pool and pergola.
13. A building is defined by s336 of the Town and Country Planning Act 1990 as including any structure or erection and any part of a building, but not plant or machinery comprised within a building. Taking that definition, it follows that if the swimming pool was a building when it was constructed then it should be taken as a building for the purpose of its replacement.
14. The Appeal Statement provides some basic figures showing that the gross external floor area (GEFA) of the proposed building would be smaller than the floor area of the existing raised area, swimming pool and pergola, and that the volume of the existing and proposed would be similar. However, the figure given of 56.4sqm for the proposed building does not correlate to the GEFA of 76.8sqm that is given in the Planning Statement which accompanied the application. The Council on the other hand has only considered the dimensions of the pergola in their assessment. This does not give a true comparison between the new building and the extent of building that is to be replaced.
15. The appellant's figures are not evidence based. There are no calculations to show how the figures for floor areas and volumes have been derived. There are no details giving the profile or dimensions of the swimming pool, either with the original planning application or within the appeal submissions. There is also some ambiguity about the retention or otherwise of the raised patio area. This is part of the swimming pool construction and creates volume. The application suggests that the pavilion would be built on the patio, implying that it would add to the existing volume of the original building that would remain. This appears to be contradicted by the way the figures are presented by the appellant at Fig 4 of their Appeal Statement. Reference in the table of figures to the '*existing raised area*' is omitted for the description of the proposed building, and within the written text at paragraph 6.5 it is stated that by removing the raised swimming pool the proposed building would be lowered by

500mm compared to the building to be removed, suggesting further that it would somehow be 1.9m lower than the existing pergola. The application drawings do not help with my understanding. The elevations do not give a clear picture of the ground levels around the proposed building and the Block Plan appears to suggest that the raised patio area would remain.

16. Without clear and unambiguous information about the size of the totality of the existing building that would be replaced (length, depth, height, area, and volume), including levels pertinent to the raised patio, I cannot be certain that there would be no increase in size. I am not satisfied therefore that the new building would not result in disproportionate additions over and above the size of the original.
17. Based on the information available to me, my conclusion overall is that the proposal would not satisfy any of the exceptions listed within paragraph 145 of the Framework. It would entail the construction of a new building which would amount to inappropriate development in the Green Belt for the purpose of the Framework and development plan policy. By definition this is harmful to the Green Belt and I attach substantial weight to this harm.

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

18. The Framework states that an essential characteristic of Green Belts is their openness and that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land within them permanently open.
19. I have addressed the issue of openness above when considering whether the proposal would satisfy exceptions b) or g) of the Framework's paragraph 145. I have found that the proposed garden pavilion would result in a loss of openness. This must be regarded as some additional harm to add to the harm by reason of inappropriateness.

Other Matters

20. The appellant has pointed out that the scheme meets the size tolerances set out in Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, Part E.1 (g) confirms that development is not permitted if the building, enclosure, pool, or container would be situated within the curtilage of a listed building. There is no fallback position in this case that carries any weight in the overall planning balance.
21. I recognise that many buildings of similar size may have been constructed in the Green Belt as permitted development. The appellant argues that the withdrawal of permitted development rights by the GPDO seeks to protect the listed building and that it is agreed there would be no harm to the setting of Mill Cottage. I attach a small amount of weight to this in favour of the appeal.
22. I have noted other concerns that have been expressed by some nearby occupiers. Due to the single-storey scale of the building, the topography of the land, and the use proposed, I am satisfied that there would be no significant impact that would harm the living conditions at nearby Hardwicke Court in terms of privacy, noise, or other nuisance. There is no substantive evidence to demonstrate that any protected species or other wildlife would be adversely

impacted. Neither is there any evidence to suggest that the existing swimming pool is an unlawful building, and I am satisfied that the proposal is for purposes that would be incidental to the enjoyment of the dwelling at Mill Cottage. I further note that the Council raised no concerns regarding any of these matters.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations

23. I have found the proposal to be inappropriate development for the reasons identified. This amounts to substantial weight against the proposal. In addition, I have also found that it would prejudice the openness of the Green Belt. When weighed in the balance, the other considerations that have been put to me do not carry sufficient weight to clearly outweigh the harms that I have identified. The very special circumstances necessary to justify the development do not therefore exist. Accordingly, the appeal is dismissed.

John D Allan

INSPECTOR