



Appeal Decision

Site visit made on 27 July 2021

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 10th September 2021

Appeal Ref: APP/K3605/W/20/3262142

Stokesheath Barn, Stokesheath Road, Oxshott, Leatherhead KT22 0PN

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under Section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Morten Warren against the decision of Elmbridge Borough Council.
- The application Ref 2020/1728, dated 22 June 2020, was refused by notice dated 10 September 2020.
- The description of the development is variation of Conditions: 1 (Approved Plans), 2 (Materials) and 3 (Surface Materials) attached to Planning Permission Ref 2015/1061 to add first-floor extension, reduce footprint of basement and reduce footprint of ground-floor'
- The conditions in dispute are Nos 1,2 and 3 which state that:
- (1) The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: PL10, PL11, and PL18 received on 16 March 2015, TPP-01 Tree Protection Plan received on 19 March 2015, PL12A, PL13A, PL14A, PL15A received on 8 May 2015, PL16B and PL17B received 22 May 2015.
- (2) The buildings shall not be erected other than in accordance with the schedule of materials received 22 May 2015 or such other materials as have been approved in writing by the Borough Council.
- (3) The surface materials for the road, parking areas and driveways in the construction of the development hereby permitted shall be resin bound bonded gravel that is SUDS compliant, as set out in the schedule of materials received 22 May 2015 or such other materials as have been approved in writing by the Borough Council.
- The reasons given for the conditions are:
- (1) To ensure that the development is carried out in a satisfactory manner.
- (2) To ensure that a satisfactory external appearance is achieved of the development in accordance with Policy DM2 of the Elmbridge Development Management Plan 2015.
- (3) To safeguard the visual amenities of the locality in accordance with Policies DM2 and DM7 of the Elmbridge Development Management Plan 2015

Decision

1. The appeal is dismissed.

Procedural Matters and background

2. The site has been the subject of a number of applications associated with the retention and conversion of buildings over the years, which the Appellant and the Council each set out in their respective evidence.

3. The application was made under Section 73 of the Town and Country Planning Act 1990 and included seeking approval for revised designs to permission Ref 2015/1061 (the 2015 permission). If acceptable, this would necessitate amendments to conditions that specify the approved plans. The 2015 permission is said to have its origins in a 2012 permission.
4. An associated Listed Building Consent was granted on 10 September 2020 and relates to the Grade II Listed barn at Stokesheath Farm. The merits of that decision are beyond the remit of this appeal, although I have taken account of it as part of noting the general planning history of the site. I have also considered the duty to pay special regard to the desirability of preserving the listed building¹ in making a decision on this appeal.
5. During the course of the appeal, clarification of the positions of the respective parties led to an amendment to the description of development with the aim of being clear about which conditions were at dispute.

Main Issues

6. The main issues are:

- Whether the proposal is inappropriate development in the Green Belt.
- Whether harm by reason of inappropriateness, would be clearly outweighed by other considerations so as to amount to very special circumstances.

Reasons

Green belt – inappropriate development

7. The National Planning Policy Framework (the Framework) says that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Paragraph 149 of the Framework says that the construction of new buildings should be regarded as inappropriate, subject to the exceptions at 149 (a) to (g).
9. In relation to the exception at 149 (d) I do not have firm evidence to demonstrate that the new buildings would be in the same use as the ones that are said to be replaced. I am not therefore satisfied that the exception at 149 (d) would apply. For the same reasons, the volume metrics set out in Policy DM18b of the Elmbridge Development Management Plan are not directly relevant.

¹ S66(1) Planning (Listed Buildings and Conservation Areas) Act 1990

10. Whilst I have given consideration to them, the evidence provided does not satisfactorily demonstrate that any of the other provisions at paragraph 149 and 150 of the Framework apply.
11. Turning to the effect on openness, the site sits close to a loose collection of what appear to be residential buildings at the end of a track leading from Stokesheath Road. The land and the immediate surroundings are more rural in character with an open nature and topography that results in long views of the site in the landscape, particularly from the rear.
12. Notwithstanding the present partially developed nature of the site, I have assessed openness against the baseline as shown in the existing drawings provided by the Appellant (the Existing Situation). The drawings show the 3 main farm buildings that stood on the site, identified as cattle shed, stable block and Listed barn. I have also paid regard to the Appellant's evidence relating to the volume and area metrics associated with the Existing Situation.
13. The proposal would result in less land take compared to the Existing Situation, primarily due to the reduced footprint at lower levels. However, the new building would be arranged differently, representing more of a single mass of built form, albeit stepped, in contrast to the less formal arrangement of the Existing Situation that resulted from the individuality of the respective buildings. These factors, coupled with the increased height at first floor level, would result in a development with a greater impact on openness when compared to the Existing Situation. This greater visual impact would be particularly prominent in long views from the rear across open fields.
14. Overall, when both the spatial and visual effects are considered, the impact of the proposal would have a greater effect on the openness of the Green Belt than the Existing Situation with effects that would consequently be harmful.
15. The proposal is inappropriate development in the Green Belt. Consequently, there is conflict with the Policy DM18 of the Elmbridge Development Management Plan, in addition to the Framework, which relate to development in the Green Belt.

Other considerations

16. I have considered the planning history of the site, insofar as the detail has been drawn to my attention. Whilst not formally evidenced, the respective statements of the Council and the Appellant suggest that the 2015 Permission is regarded as extant. As such, implementation of that permission is a potential fallback position. Notwithstanding the Appellant's comments about the costs associated with pursuing that permission, I am satisfied on the basis of the evidence provided that there is a greater than theoretical possibility that the fallback position may occur.

17. However, carefully considering the differences between the two, the appeal proposal does not represent a preferable position to the implementation of the 2015 Permission in terms of its impact on the Green Belt. I accept that the footprint at lower levels would be reduced, however this does not justify the greater built presence at upper level that would result from the proposal, even where the Appellant's figures relating to the differences are accepted. This element would result in a greater impact on openness due in particular to the increased prominence that would result, particularly in more exposed views from the rear. As such, I do not accept that the increase in height is minor in this context, nor that it is offset by the reductions in footprint described by the Appellant.
18. I have paid regard to the Appellant's comments relating to the cost and practicality benefits linked to the proposal. Whilst of relevance, the impact of these matters is not clearly demonstrated on the basis of the evidence provided.
19. Similarly, the evidence does not demonstrate in sufficient depth that the proposal would lead to a more satisfactory resolution to issues linked to rebuilding the Listed barn.

Conclusions

20. The proposal is inappropriate development in the Green Belt which is, by definition, harmful. As such, there is conflict with local and national planning policy as described above. Paragraph 148 of the Framework is clear that any harm to the Green Belt should attract substantial weight.
21. I have carefully considered the evidence in relation to other considerations. My conclusions on these matters are set out above. For the reasons discussed the other considerations attract only limited weight.
22. Weighing the issues up, given the great importance attached to the Green Belt both nationally and locally, I conclude that the harm by reason of inappropriateness is not clearly outweighed by the other considerations. Consequently, very special circumstances do not exist and the Framework and other policies direct that planning permission should be refused.
23. For the above reasons and having regard to all other matters, I conclude that the appeal should be dismissed.

D.R. McCreery

INSPECTOR