

Appeal Decision

Site visit made on 6 September 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2021

Appeal Ref: APP/Y3615/D/21/3273008

Appin Lodge, Long Hill, The Sands, Farnham GU10 1NQ

- 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 Antony Stuart against the decision of Guildford Borough Council.
 - The application Ref 20/P/00483, dated 17 March 2020, was refused by notice dated 5 March 2021.
 - The development proposed is erection of a detached outbuilding following demolition of the existing building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties were given the opportunity to comment on this matter, and I have had regard to the updated Framework in determining this appeal.
3. The development has already been carried out, and I have determined the appeal on the basis that planning permission is sought retrospectively.

Main Issues

4. The main issues are:
 - Whether the appeal scheme constitutes inappropriate development in the Green Belt, having regard to the Framework;
 - The effect on the openness of the Green Belt; and
 - If found to be 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.

Reasons

Whether inappropriate development

5. Located within the Green Belt, the appeal site comprises a residential property and several outbuildings set within spacious grounds. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. As detailed in paragraph 149, there are a number of exceptions, which include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
6. There is no dispute between the main parties that the outbuilding constitutes a replacement building, as it has been constructed in a position that substantially overlaps that of the original building. The submitted information however confirms that the replacement building is materially larger than the original structure, having regard to its height, width, floor area and mass.
7. My attention has been drawn to a structural survey¹ prepared by Cubitt & West, which refers to a 'very rough timber and corrugated iron store to the rear of the building', but this document does not give dimensions for this structure, and it is not supported by photographic evidence. It is also unclear when this store was removed. This limits the weight which can be afforded to this consideration.
8. Having regard to the available evidence, I find that the appeal building is materially larger than the one it has replaced, and constitutes inappropriate development in the Green Belt. It therefore conflicts with paragraph 149 of the Framework and Policy P2 of the Guildford Borough Local Plan: Strategy and Sites (adopted 25 April 2019), which confirms that inappropriate development in the Green Belt will not be permitted unless very special circumstances can be demonstrated.

Openness

9. A fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Although it is not defined in the Framework, openness is identified as one of the essential characteristics of the Green Belt. The Courts² have subsequently confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect.
10. As set out above, the replacement outbuilding is materially larger than the former structure. It is therefore a larger built form in spatial terms. Although it is partially screened by existing boundary fencing and vegetation, the additional height of the outbuilding increases its visibility from the track running to the south-east of the site. Consequently, the development results in a moderate loss of openness, both in spatial and visual terms, thus adding to the harm by reason of inappropriateness, which is contrary to the Framework.

Other considerations

11. 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 148 adds that very special circumstances 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.

¹ Dated 28 April 1986.

² Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466.

12. The appellant's submissions refer to a fallback position, as a garden building with a larger footprint could be potentially erected within the existing garden area, subject to the restrictions attached to the exercise of permitted development rights (PD), notably in Areas of Outstanding Natural Beauty (AONB). However, limited information has been presented regarding this fallback position, or the exact location of this potential garden room.
13. There is therefore no real prospect, having regard to the available evidence, that an outbuilding could be erected using PD rights if planning permission for the existing structure was not forthcoming and, even if there was, that it would cause greater harm to the Green Belt than the appeal development. Furthermore, I have been presented with no mechanism to restrict the use of permitted development rights upon the grant of planning permission, to ensure that no additional structures could be constructed in the future.

Other Matters

14. No concerns have been raised by the Council regarding the effect of the development on the Surrey Hills AONB and Area of Great Landscape Value (AGLV). Having regard to the information before me, there are no reasons for me to reach an alternative view, and I therefore confirm that the appeal scheme preserves the landscape and scenic beauty of the Surrey Hills AONB and AGLV.

Planning Balance

15. The appeal scheme constitutes inappropriate development in the Green Belt, and reduces openness. Substantial weight is ascribed to the inappropriate nature of the development, but also to the harm caused to openness. The development therefore conflicts with national and local planning policies. Against that, I can only attach very limited weight to the presented fallback position, due to the lack of evidence in that regard and absence of mechanism restricting the use of PD rights.
16. Overall, the harm to the Green Belt is not clearly outweighed by other considerations advanced in support, whether taken individually or cumulatively. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

17. There are no considerations which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, the appeal is dismissed.

S Edwards

INSPECTOR