



Appeal Decision

Site Visit made on 28 September 2021

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/Y3615/W/21/3271000

Halfpenny House Halfpenny Lane, Guildford GU4 8PZ

- 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 Sohaib Safilluh against the decision of Guildford Borough Council.
 - The application Ref 20/P/01839, dated 20 October 2020, was refused by notice dated 4 January 2021.
 - The development proposed is a single storey side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, the previous dwelling which had been on site had been demolished. A new dwelling was nearing completion and now appeared to be occupied.
3. There is no dispute between the main parties that when the construction of the new dwelling commenced it included what the appellant considers to be a single storey side extension, and which the planning application the subject of this appeal purported to regularise. However, at the time this construction work began there was no dwelling which was capable of being extended. Therefore, the works were not by definition an extension to a dwelling but part of the overall construction of a single dwelling.
4. Although the previous dwelling on the site has been demolished, the demolition has only been completed recently, and after the work began on the new dwelling. Whilst what has been built on site differs from what the Council granted permission for; it was intended to replace the previous dwelling and there remains an extant permission for a dwelling. It would therefore be a common sense approach for me to consider this appeal on the basis of the proposal being for a replacement dwelling.
5. The appellant submitted the planning application as a householder proposal for a 'single storey side extension'. The householder application forms allow for a more streamlined administrative approach, but they do not override the development plan or the Framework¹ considerations. Furthermore, this appeal has been handled through the written representation procedure rather than the Householder Appeal Service and the appellant has had an opportunity to address the Council's assertions regarding the building's status. Accordingly, I

¹ National Planning Policy Framework (2021)

do not consider that the appellant has been prejudiced by my considering the proposal as a replacement dwelling.

6. A revised Framework was published by the Government between the determination of the planning application and the appeal coming before me. I am satisfied that this latest version of the Framework does not raise any new considerations in relation to this appeal.

Main Issues

7. The main issues are:

- whether the development is inappropriate development in the Green Belt;
- the effect of that development on the openness of the Green Belt; and
- 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 or not the proposal is inappropriate development in the Green Belt

8. Policy P2 of the Local Plan² concerns 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 Framework. Paragraph 149 of the Framework lists the 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.
9. The new building would be in the same use as the building it would replace. The Officer Report sets out the difference in dimensions, floor area and volume between the current proposal and the one it would replace. The current proposal is said to represent a 50% increase in floorspace and a 96% increase in volume over the dwelling it would replace. The appellant has not disputed these figures.
10. The previous dwelling has now been demolished and therefore, for comparison purposes, I have had to have regard to the drawings provided. These show the position and footprint of this previous dwelling and confirm that the replacement building has a significantly larger footprint and building envelope. Although the new building has a lower ridge height than the previous building, having regard to the evidence before me, I conclude that the proposal results in a materially larger building.
11. Consequently, the dwelling would not fall within the exception listed in paragraph 149 of the Framework. I therefore conclude that it would be inappropriate development in the Green Belt, contrary to Policy P2 of the Local Plan and the Framework. By definition, inappropriate development would be harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework states that in considering a proposal substantial weight should be given to any harm to the Green Belt.

² Guildford Borough Local Plan: Strategy and Sites (2019)

Openness and Purposes of the Green Belt

12. The Framework also sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
13. Although the proposal overlaps in part with the siting of the previous dwelling, as required by Policy P2 of the Local Plan, the building has been reorientated from a predominantly north-south alignment to more of an east-west alignment. In combination with the increased floorspace and volume, the building now has greater prominence from more distant views of the site and closes the gap between the dwelling and the existing barn/outbuilding on the site. Taking these factors together with the overall floorspace and volume of the new dwelling, this would result in a significant loss of openness. Accordingly, I conclude that the proposal would conflict with Paragraph 137 of the Framework.

Other considerations

14. Paragraph 148 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm.
15. The appellant contends that the Council has not raised concerns regarding neighbour amenity, highway safety, ecology or impact upon either the character of the area, the Area of Outstanding Natural Beauty or the Area of Great Landscape Value. However, these factors would represent a lack of harm and accordingly would be neutral in any balance.
16. The appellant points me towards an appeal decision to support the contention that the works constitute an extension rather than a replacement dwelling. However, that appeal was dealing with a different situation that pre-dated the current Local Plan. I can therefore give limited weight to that appeal decision.
17. Similarly, my attention has been drawn to the fact that construction work has ceased on what the appellant considers to be an extension, and the remaining part of the dwelling is now considered to be complete and occupied. However, this does not overcome the fact that when construction commenced the works were for a single entity. The unfinished element would not now be classed as an extension simply because part of the building is now occupied. I am therefore unable to give this matter any weight.
18. Notwithstanding the above, if I were to have concluded that the works were an extension, rather than a replacement dwelling, I would similarly have needed to consider whether the development was inappropriate development within the Green Belt. In accordance with Paragraph 149 of the Framework, an extension or alteration would not be inappropriate development if it does not result in disproportionate additions over and above the size of the original building. Policy P2 of the Local Plan is clear that original building in this context refers to either 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. As such, neither the building approved in 2016 (nor the subsequent approvals under S.73 of the Act³), would constitute the original building.

³ Town & Country Planning Act 1990 (as amended)

19. When compared to the details available regarding the original dwelling, the extended dwelling would have a significantly greater floorspace and volume. Visually, the enlarged dwelling would have a greater prominence and appear as a disproportionate addition over and above the size of the original building. It would therefore be inappropriate development in the Green Belt, which given its orientation and resulting elongated appearance, would significantly harm the openness of the Green Belt. My conclusions would therefore remain the same, and as an extension, the appeal scheme would not comply with the Framework or the Local Plan.
20. The appellant reasons that if I were minded to conclude the proposal is inappropriate development, then there is a permitted development fall-back position which would amount to very special circumstances. Whilst such rights may not have been removed from the planning permissions that have been granted on site, the building as constructed is unauthorised, and as such, it would not benefit from permitted development rights. I also note that the extension cited by the appellant as the fall back would not be directly comparable as it would be to a different part of the dwelling, extending existing rooms rather than providing new rooms. The weight I could therefore attach to this matter would be limited.

Conclusion

21. The proposal would constitute inappropriate development in the Green Belt and would harm openness. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
22. The weight I give to the considerations cited in support of the proposal is limited and accordingly they do not outweigh the harm the development would cause. The very special circumstances necessary to justify the proposal do not exist.
23. The development is contrary to the Framework and to the development plan which seek to protect the Green Belt. I have considered all other matters raised but none outweigh the conclusions I have reached.
24. For the reasons set out above, I dismiss the appeal.

Stewart Glassar

INSPECTOR