
Appeal Decision

Site visit made on 15 December 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Appeal Ref: APP/X0360/D/21/3279457

**Wilderness Cottage, Hatch Gate Lane, Cockpole Green, Wargrave
RG10 8QJ**

- 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 & Mrs L. Jones against the decision of Wokingham Borough Council.
 - The application Ref 210594, dated 19 February 2021, was refused by notice dated 30 April 2021.
 - The development proposed is for the proposed erection of a garden storage outbuilding and retaining wall, following demolition of existing outbuildings (Part Retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for the proposed erection of a garden storage outbuilding and retaining wall, following demolition of existing outbuildings at Wilderness Cottage, Hatch Gate Lane, Cockpole Green, Wargrave RG10 8QJ in accordance with the terms of the application, Ref 210594, dated 19 February 2021 and subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs L. Jones against Wokingham Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal scheme is a revision to a similar scheme for which planning permission was refused¹. The difference between the previous scheme and the appeal scheme is the alteration of the roof from a dual pitched roof to a mono-pitched roof. The proposed outbuilding including the alterations to form a mono-pitched roof and retaining walls have been largely constructed although not completed. I have proceeded to consider the appeal on that basis.
4. The description of development in the banner heading above is taken from the application form. I have used this in my formal decision but omitted the wording 'part retrospective' as that is not a description of development.

¹ Council Ref: 202058

Main Issues

5. The main issues 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 proposed development on the character and appearance of the area;
- the effect of the proposed development on protected trees; and
- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

6. The appeal site comprises a detached domestic property and its sizeable garden. A bridleway runs along the front boundary of the site which also provides vehicular access to the property. It lies within the Metropolitan Green Belt.
7. The appeal scheme is for the construction of a detached outbuilding with an open front elevation. It would be used for the storage of garden equipment in association with the residential use of the property. The building has a mono-pitched roof which follows the slope of the garden, enclosed by retaining walls.

Whether inappropriate development

8. Paragraph 147 of 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 149 sets out that the construction of new buildings is inappropriate within the Green Belt subject to a number of exceptions. Those considered relevant to this appeal are d) the replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces; and g) which allows for complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development.
9. Policy CP12 of the Wokingham Borough Core Strategy 2010 (the CS) states that planning permission will not be granted for inappropriate development within the Green Belt. Policy TB01 of the Wokingham Borough Managing Development Delivery Local Plan 2014 (the MDD LP) refers to the Framework. It specifies that the construction of buildings ancillary to a dwelling in the Green Belt over and above the size of the original building(s) shall be limited in scale.
10. The proposed outbuilding would be 13 metres by 6 metres in size with a maximum ridge height of 3.2 metres. It is stated to have a volume of 218.4 cubic metres.
11. The appellants have stated that the outbuilding would replace three outbuildings which have a combined volume of 380.6 cubic metres. At the time

of my site visit, only one of the outbuildings to be replaced existed, the other two having already been demolished.

12. An outbuilding, described as an 'old workshop/former pig shed', previously existed on the site. The evidence indicates that this building would have had a volume of 140 cubic metres. The parties dispute when this building was demolished. The appellants have indicated that this followed the construction of the retaining walls in 2020. The Council disputes this, suggesting that based on aerial photos, this was demolished prior to 2013. At the time of my site visit, I observed no physical evidence of the building. Given there is no firm evidence of this building having recently been in existence, I consider there is no building to be replaced in this instance. I therefore discount this from the overall calculation of the size of the existing building.
13. The bridleway building is stated to have had a volume of 200 cubic metres. The photographic evidence shows that it was clearly in a state of dereliction. It was demolished in 2020 following the refusal of planning permission for a originally proposed scheme. However, it would have been a substantial outbuilding that existed until very recently. There is nothing within the Framework specifying that buildings in a state of disrepair should be excluded from any assessment of replacement buildings. In view of its very recent existence, I consider this should be taken into account in my assessment as to whether the proposed development would be materially larger.
14. The existing outbuilding is a small shed, with a volume of 40.6 cubic metres. The demolition of this shed in combination with the already demolished building adjacent to the bridleway would have a combine volume of just over 240 cubic metres. The proposed outbuilding would be smaller than this. In addition, the demolished outbuilding is indicated to have had a ridge height of 2.5 metres whilst the existing shed is 3.9 metres. The appeal scheme would have a height falling between these.
15. For these reasons, I conclude that the new building is not materially larger than the combined buildings it is replacing. I have little information about how the outbuilding adjacent to the bridleway was previously used. However, it was an outbuilding within the curtilage of a residential property as the proposed development is. In these circumstances, it seems to me that their uses would not be dissimilar.
16. As I have found that the proposed outbuilding is not inappropriate development under exception d) of paragraph 149, there is no need for me to go on to consider whether the proposed outbuilding would meet exception g).
17. The proposal also includes the construction of retaining walls which would not be a new building. In my view this is a form of engineering works. This element of the proposal would therefore fall to be considered under paragraph 150 of the Framework. This sets out that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes b) engineering operations.
18. Paragraph 138 of the Framework sets out the five purposes the Green Belt serves. Of relevance to the appeal scheme is c) to assist in safeguarding the countryside from encroachment. To my mind, encroachment into the

countryside suggests the extension of the built form away from existing development into undeveloped areas.

19. The retaining walls are a relatively short distance from the host property from which it is separated by an area of hardsurfacing. The walls are contained within the slope of the upper part of the garden. It has been established that until recently a building existed on the upper part of the slope and the retaining walls are positioned between where that building was and the host property. In this context, the retaining walls are contained between development. They do not therefore result in encroachment into the countryside.
20. It has been established through caselaw that both visual and spatial impacts of development are relevant in an assessment of openness. The retaining walls are set into the slope of the garden. They are not visible from public viewpoints as they face the host property and align with the slope of the garden. Whilst they introduce built development where it did not previously exist there is no volumetric increase from these walls which now form part of an edge within the garden. For these reasons, the retaining walls do not harm the openness of the Green Belt either visually or spatially.
21. Consequently, I find that the proposed development is not inappropriate development within the Green Belt. The proposal complies with Policy CP12 of the CS and Policy TB01 of the MDD LP and paragraphs 149 and 150 of the Framework which together seek to protect the Green Belt from inappropriate development. As the proposal complies with these policies an assessment of the effect of the proposed outbuilding on openness and whether very special circumstances apply is not required.

Character and appearance

22. The appeal site is located within the Bowsey Hill Valued Landscape. This area is valued for its tranquillity and scenic beauty with the trees, woodland and topography contributing to a strong sense of place. The Wokingham Borough Landscape Character Assessment 2019 identifies the area in which the appeal site lies as the High Quality F1 Bowsey Hill Wooded Chalk Knolls Landscape Character Area. The key characteristics of which are described as being a largely unsettled area with an occasional isolated property set within a wooded context and connected by narrow and winding lanes. Its landform and woodland create an enclosed landscape although in places there are clear views over the surrounding landscapes.
23. The appeal site is located some distance along a narrow country lane characterised by dispersed residential development set within sizeable plots, partially enclosed by mature woodland. This contributes to the sylvan character of the area and gives the area a sense of remoteness, seclusion and tranquillity. The host property is set down from the bridleway, accessed via a steep sloping driveway. The eastern section of garden bounding the bridleway similarly slopes down towards the house with the garden to the west at a lower level. The appeal site therefore displays many of the key attributes of the landscape area in which it is located.
24. The proposed outbuilding has been constructed within the steep slope of the eastern garden which has been extensively excavated. It is positioned at the same level as the host property. Whilst it is a large structure, it has been designed to sit within the slope so that it follows the line of the land. Once

completed, it is proposed to install a green sedum roof which would help to blend the outbuilding with the slope of the garden. It would therefore have a very limited visual impact on the area.

25. Whilst the appeal site affords views of the surrounding landscapes, these are from the western side of the garden and the proposed outbuilding is blocked from these views by the host property which occupies the intervening space. It does not therefore appear visually intrusive within the landscape.
26. The proposed use of the outbuilding for storage purposes in association with a domestic dwelling would not introduce new activities to this tranquil and secluded location. It would not therefore undermine the established character of the area.
27. However, a concern has been raised that the proposed outbuilding could be used for the storage of high performance sports cars in association with the commercial activities of the appellants. Should these vehicles be regularly brought to the site and stored, this could give rise to disturbance locally and harm to the character of the area. In view of these concerns and given that the scale of the outbuilding could lend itself a range of uses, I consider the imposition of a condition restricting the use to domestic purposes ancillary to the dwelling is reasonable in order to protect the character of the area.
28. This leads me to conclude that the proposal conserves the existing character of the valued landscape. I therefore conclude that the proposed development does not harm the character and appearance of the area. It therefore complies with Policies CP1, CP3 and CP11 of the CS and Policy TB21 of the MDD LP. Together and amongst other things, these policies seek development that maintains the high quality of the environment, has no detrimental impact upon landscape and retains or enhances the features that contribute to the landscape. It also complies with the Framework which seeks the protection of valued landscapes and development that is sympathetic to local character. It also accords with the guidance set out in the Borough Design Guide Supplementary Planning Document 2012 (the SPD) which seeks good design that responds positively to its local context.

The effect on protected trees

29. The appeal site lies within an area covered by a woodland Tree Preservation Order². The woodland in this area is identified as mainly ancient woodland and of high density and a great extent which make the area and trees within it valuable for woodland species and the woodland landscape. It also contributes to the green infrastructure of the area. Within the eastern part of the garden, there are a number of mature trees. These form part of this woodland, contribute to the wider woodland landscape and are therefore protected.
30. The Council has objected to the scheme on the basis that the excavation and construction works are likely to have damaged the root protection areas (RPAs) of multiple trees within close proximity to the retaining walls. This would have damaged the protected trees in the long term and will, over time, further undermine the integrity of the protected woodland area.
31. The appellants submitted a Tree Survey and Arboricultural Method Statement (28 July 2020) (the TSAMS) which was produced following the substantial

² TPO 4/1951

- construction of the proposed development. The TSAMS stated that there appeared to have been no structural incursion into the RPAs of retained trees as a result of the excavation and construction. The TSAMS did however identify that there has been some minor scraping away of soil top layers and lowering of ground levels within the RPAs of three trees, a holly tree (T3), an oak (T5) and a copper beech (T7). It also noted that there had been some ground lowering within the RPAs of these three trees. In addition, a yew tree (T6) had been pruned and required some remedial pruning.
32. The TSAMS also identified that a leylandii tree (T9), which was categorised on the basis of guidance set out in British Standards³ as a Category U tree and unsuitable for retention, as requiring no immediate removal but acknowledging its proximity to the area excavated and that this would have been affected by the works.
33. It is not clear if any trees were removed to accommodate the proposed development. Furthermore, the evidence is inconclusive about the extent of harm that has occurred to trees (T3, T5 and T7) as a consequence of both the works of excavation and construction and any subsequent land movement. Nevertheless, it is evident that there has been some encroachment into the RPAs of these trees which would potentially harm their long-term viability.
34. The Arboricultural Written Statement (9 July 2021) has set out detailed proposals to mitigate any harm including to improve the soil environment and to de-compact the soil around the roots of these trees. These works are intended to increase tree vigour and ensure their long-term retention. Measures including air 'tillage', fertiliser and mulch which has been found effective in improving soils beneath established trees are proposed. This would provide some mitigation and restorative works to help secure the long-term health of these trees already affected by the works that have taken place. A suitably worded condition could be imposed to secure these works.
35. In addition to mitigating works, the appellants have proposed to establish areas of native shrub planting to the east and south of the retaining walls, with some additional planting of lower storey trees where space permits and a new roadside hedgerow with native species. This additional work would provide some compensation for any unforeseen harms that may have occurred. A condition to secure this would therefore be reasonable.
36. Together the mitigation and compensation would both ensure the long-term health of the trees and improvement to the woodland environment around the appeal site. It would therefore support the integrity of the woodland and its role as a valuable area of green infrastructure. In coming to this view, I am mindful that the Council, in its comments on the original planning application, did not object to the scheme on the grounds of harm to the trees but recognised that landscape proposals would go some way to mitigate the impact of any loss of trees or understorey that may have occurred as a result of the development.
37. With works of mitigation and compensation secure, I conclude that the proposed development does not adversely affect the protected trees. It therefore complies with Policies CP1 and CP3 of the CS and CC03 of the MDD LP which together seek development that maintains or enhances the high

³ BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations

quality of the environment and the ability of the site to support flora, protects and retains existing trees and the Borough's green infrastructure. It also complies with the Framework which recognises the benefits of trees and woodland. It also accords with the SPD which requires new development to respond positively to its site and local context including mature trees.

Conditions

38. The Council has suggested a number of conditions in addition to those which I have already referred to above. I have considered these against the tests set out in paragraph 56 of the Framework. A condition specifying the approved plans is necessary as this provides certainty. In the interests of character and appearance, I have imposed a condition requiring materials to match existing. I have also imposed a condition requiring the demolition of the existing shed in order to avoid harm to the Green Belt.

Conclusion

39. For the reasons set out above, I conclude that the appeal should be allowed.

Rachael Pipkin

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1568-01, 1568-02, 1568-03, 1568-04, 1568-05, 4B LL CR Rev.1, unnumbered drawing entitled 'Proposed Internal Layout Plan' and site location plan.
- 2) Except where stated otherwise on the approved drawings, the materials to be used in the construction of the external surfaces of the extension hereby permitted shall be of similar appearance to those used in the existing building, unless other minor variations are agreed in writing after the date of this permission and before implementation with the Local Planning Authority.
- 3) Within 6 months of the date of this permission, the existing brick outbuilding, as shown on drawing 1568-04, shall be demolished.
- 4) Within 6 months of the date of this permission, the remedial mitigation as set out within the 'Arboricultural Written Representation for Planning Appeal Wilderness Cottage Bowsey Hill', Reference PB/PAWR-21/15.05, dated 19 July 2021, shall be implemented. This work shall be supervised by a qualified arboriculturist instructed by the applicants and approved in writing by the local planning authority. A signed certificate of compliance shall be provided by the appointed arboriculturist to the local planning authority on completion of the works.
- 5) Within 6 months of the date of this permission, there shall be submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted, and any existing trees or shrubs to be retained. Planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the occupation of the building. Any trees or plants which, within a period of 5 years from the date of the planting (or within a period of 5 years of the occupation of the buildings in the case of retained trees and shrubs) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species or otherwise as approved in writing by the local planning authority.
- 6) The outbuilding hereby permitted shall only be used for purposes ancillary to the residential use of the dwelling known as Wilderness Cottage.

End of schedule