



Appeal Decision

Site visit made on 10 January 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2022

Appeal Ref: APP/Y3615/D/21/3273520

Rose Tree Barn, The Avenue, Compton, Guildford GU3 1JW

- 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 R Trendle against the decision of Guildford Borough Council.
 - The application Ref 20/P/01998, dated 24 November 2020, was refused by notice dated 27 January 2021.
 - The development proposed is described as, "The erection of a first-floor rear extension with balcony and the two-storey glazed porch extension to the front elevation".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - if the proposal would 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 it.

Reasons

Whether Inappropriate Development

3. The National Planning Policy Framework (the Framework) establishes that the construction of new buildings within the Green Belt is inappropriate. There is a closed list of exceptions to this in paragraph 149 of the Framework. One of which relates to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building (paragraph 149 c)). This principle is reflected in Policy P2 of the Guildford borough Local Plan: strategy and sites 2015 – 2034 (adopted 2019) (Local Plan) which references the list of exceptions identified by the Framework. These policies assist in safeguarding the 5 purposes of the Green Belt. Of particular relevance is the Green Belt's purpose in relation to its assistance in safeguarding the countryside from encroachment.
4. Rose Tree Barn is a 2-storey dwelling. The property comprises a barn conversion, the original barn having been significantly extended on 3 sides. The parties disagree on the exact floor space figures with respect to the size of the

original, the existing, and the proposed building. Nevertheless, based on the figures before me it is apparent that the proposal would, in combination with the existing extensions, result in a floor space uplift of at least approximately 98% from the original building. This percentage increase in size over the original building is considerable.

5. Furthermore, the proposed 2-storey porch would materially increase the bulk of the building. The proposed first-floor rear extension would span the full width of the original building and it would be a particularly deep structure. Accordingly, when considered in conjunction with the existing extensions the proposal would involve a considerable increase in size over and above the size of the original building.
6. I therefore find that the proposal would result in disproportionate additions over and above the size of the original building, in conflict with paragraph 149 c) of the Framework. The proposal therefore constitutes inappropriate development in the Green Belt for the purposes of the Framework and Policy P2 of the Local Plan. For completeness, I note that this finding is also common ground between the main parties. Inappropriate development is, by definition, harmful to the Green Belt.

Openness

7. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
8. The site is in a fairly secluded location. Only the proposed front porch would expand the footprint of the existing building. Consequently, the impact of the proposal on the openness of the Green Belt would be limited in purely visual terms. The proposal would not involve new independent structures being created around the site. Nevertheless, the proposal would result in a physically larger building than that which exists, particularly at first-floor level. Thus, the openness of the Green Belt would be reduced in spatial terms, albeit by a limited degree. This would cause harm to the openness of the Green Belt.

Other Considerations

9. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes 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.
10. The design and materials of the proposal would reflect the original heritage of Rose Tree Barn. The resulting building would appear in-keeping with its surroundings, thereby complying with Policy G5 of the Guildford Borough Local Plan 2003 (adopted 2003) (2003 Local Plan) and Policy D1 of the Local Plan which collectively provide that, amongst other things, all new developments will be required to achieve high quality design that responds to distinctive local character (including landscape character) of the area in which it is set.
11. Due to its scale, and the distance between Rose Tree Barn and Rose Tree Cottage (a Grade II listed building), the proposal would preserve the setting of

the listed building. It would thereby comply with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. For the same reasons, the proposal would comply with both Policy HE4 of the 2003 Local Plan and Policy D3 of the Local Plan, which collectively provide that, amongst other things, the historic environment will be conserved and enhanced in a manner appropriate to its significance. The limited scale of the proposal in its wider context also means that it would not harm the distinctive character of the Area of Great Landscape Value, and in this respect it would comply with Policy P1 of the Local Plan.

12. Nevertheless, as all these considerations would merely serve to maintain the character and appearance of the area and the landscape, and the setting of the listed building, they are neutral factors, which do not weigh in favour of the proposal, as is the lack of harm in relation to the proposal's effect on the living conditions of neighbouring occupiers, in compliance with Policy G1 (3) of the 2003 Local Plan which provides that, amongst other things, the amenities enjoyed by occupants of buildings should be protected from unneighbourly development.
13. This appeal involves a fall-back position, relating to 2 extant grants of Certificates of Lawfulness (for the erection of front and side porches (20/P/00975), and a rear dormer extension to the roof (20/P/01345)), and a written notice that prior approval is not required with respect to a single storey rear extension (20/W/00101) (the extant extensions).
14. I note the case law quoted by the appellant¹ and on the evidence before me, which includes a copy of an e-mail demonstrating the appellant's intentions, I consider that there is a real prospect that either some or all parts of the fall-back position would be implemented, should this appeal be dismissed. The figures provided by the parties demonstrate that when assessed against the original building the extant extensions would result in an approximately 21% greater floor area, when compared to the proposed extensions. Additionally, the massing, scale and bulk of the extant extensions would be greater than the proposed extensions, albeit not significantly.
15. From this it follows that the extant extensions, if implemented, would have a greater impact on the openness of the Green Belt than the proposal. Consequently, the proposal would be less harmful in Green Belt terms than the extant extensions. As such, the fall-back position is clearly a matter that I attach weight to in my consideration of this appeal.
16. The appellant has put forward a condition which is designed to control permitted development rights and prevent both the extant extensions and the proposal being built out together. In this regard, I note that it would not be practical for the rear dormer extension², or any other dormer on the rear elevation, to be built in conjunction with the proposed first-floor rear extension, as they relate to the same space.
17. I have carefully considered the submitted Legal Opinion, which discusses the proposed condition. The proposed condition would prevent the exercise of permitted development rights for even very modest developments, such as a

¹ *Brentwood BC v SSE* [1996] 72 P&CR 61; *Samuel Smith Old Brewery (Tadcaster) v SSCLG & Ors* [2009] EWCA Civ 333; *Zurich Assurance Ltd (t/a Threadneedle Property Investments), R (on the application of) v North Lincolnshire Council & Anor* [2012] EWHC 3708 (Admin)

² Certificate of Lawfulness Ref 20/P/01345

small single-storey extension, for example. It is unlikely that such minor developments would cause any material harm in planning terms. The proposed condition is therefore excessively restrictive. Having regard to paragraph 56 of the Framework, its imposition in this case would not be reasonable.

18. In light of the above, there is no effective mechanism before me which would prevent certain extant extensions from being built in conjunction with the proposal. Accordingly, the benefits of the proposal when compared with the fall-back position could be negated. This reduces the weight that I can give to the fall-back position. Hence, the fall-back position has been given no more than moderate weight in favour of the proposal.
19. The appellant has referred to Class AA of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, which relates to the enlargement of a dwellinghouse by the construction of additional storeys. However, as this right is subject to a prior approval procedure which entails the consideration of a number of criteria, the outcome of any prior approval application would not be certain. Additionally, no evidence of a prior approval application has been provided. Consequently, I am not persuaded that there is a greater than a theoretical possibility that the Class AA permitted development right would be exercised. Limited weight is therefore given to this matter.
20. The proposal would improve the living accommodation available to the appellant. However, as this would mainly be a private benefit, this has been given limited weight.

Other Matters

21. The appellant has referred to the conduct of the Council during the processing of the planning application, and has provided a copy of an e-mail to the Council in this regard, but this is not a matter that I can assess in the context of a planning appeal.

Conclusion

22. The proposal would be inappropriate development in the Green Belt and would result in a reduction in its openness. These matters carry substantial weight. Taken together, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist. Therefore, the proposal would not comply with the Green Belt aims of Policy P2 of the Local Plan, or the Framework, and consequently would be unacceptable.
23. Overall, the proposal would not constitute sustainable development. Thus, the proposal would not comply with Policy S1 of the Local Plan which provides that, amongst other things, when considering development proposals a positive approach should be taken that reflects the presumption in favour of sustainable development contained in the Framework.
24. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR