



Appeal Decision

Site visit made on 8 February 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2022

Appeal Ref: APP/A3655/W/21/3279153

Hazels, Pyle Hill, Sutton Green, Woking GU22 0SR

- 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 D Carr against the decision of Woking Borough Council.
 - The application Ref PLAN/2021/0416, dated 13 April 2021, was refused by notice dated 8 June 2021.
 - The development proposed is the demolition of the existing house and garage and erection of replacement dwelling and detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing house and garage and erection of replacement dwelling and detached garage at Hazels, Pyle Hill, Sutton Green, Woking GU22 0SR in accordance with the terms of the application, Ref PLAN/2021/0416, dated 13 April 2021, subject to the conditions in the attached schedule.

Main Issues

2. 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 on the openness of the Green Belt.
 - The effect of the proposal on the character and appearance of the area.
 - The effect of the proposal on the living conditions of the occupants of Cedar House having regard to outlook and light, 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 required to justify the proposal.

Reasons

Whether inappropriate development

3. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land

- permanently open as the essential characteristics of Green Belts are their openness and their permanence.
4. The construction of new buildings within the Green Belt is inappropriate with the exception of the types of development listed in paragraph 149 of the Framework. Criterion d) of Paragraph 149 allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy CS6 of the Woking Core Strategy, October 2012 (CS) and policy DM13 of the Development Management Policies Development Plan Document, October 2016 (DMP) both seek to prevent harmful development in the Green Belt. They generally resist development for new buildings in the Green Belt save for the development that accords with the exceptions in the Framework.
 5. Policy DM13 of the DMP expands upon the criteria in the Framework and includes specific reference to replacement buildings. It supports the replacement of buildings within the Green Belt where the proposed new building: (i) is in the same use as the building it is replacing; (ii) is not materially larger than the building it is replacing; and (iii) is sited on or close to the position of the building it is replacing, except where an alternative siting within the curtilage demonstrably improves the openness of the Green Belt. The Council does not dispute that criteria (i) and (iii) would be met but considers that the proposal would be materially larger than the existing single storey dwelling.
 6. The explanatory text¹ to policy DM13 states that when assessing this aspect, the Council will compare the size of the existing building with that proposed, taking account of siting, floorspace, bulk and height. As a general rule, a replacement building that is no more than 20-40% larger than the one it replaces will not usually be considered to be disproportionate, although this approach may not be appropriate for every site.
 7. The appellant acknowledges² that the proposed replacement dwelling would have a larger footprint, floor area and maximum height than the existing dwelling. Furthermore, the volume would increase from approximately 464m³ to 1063m³ and so would more than double in size. This considerably exceeds the indicative range given for policy DM13. Consequently, the replacement dwelling would, by any reasonable size analysis, be materially larger than the existing dwelling.
 8. My attention is drawn to various other replacement dwellings and extensions³ that have been permitted in the vicinity which the appellant asserts amount to increases in size in excess of 40%. However, I am not provided with all the circumstances that led to those decisions and based on the information before me, the majority preceded the adoption of the DMP which sets out how the Council will make assessments of replacement buildings in the Green Belt. Therefore, whilst they carry limited weight, they do not persuade me that the specific dwelling proposed in this case would not be materially larger than the dwelling to be replaced.

¹ Paragraph 5.43

² Figure 2, Appellant's Appeal Statement

³ Figure 1, Appellant's Appeal Statement

9. Accordingly, I find that the proposed replacement dwelling would not fall within any of the exceptions listed in paragraph 149 of the Framework. It follows, that the proposal constitutes inappropriate development in the Green Belt.

Openness

10. The existing dwelling is a single storey structure set within a generous plot. It is flanked by two storey residential development set within a wider row of development broadly following a building line facing Pyle Hill. By comparison to the existing dwelling, the proposed dwelling would have a more compact footprint width. However, it would notably increase in depth, as would the volume and height of built form. The increase in size would be apparent from Pyle Hill.
11. Therefore, the proposal would have an adverse spatial and visual impact on the openness of the Green Belt. Nevertheless, the extent of this harm would be limited given the relatively modest scale of the proposal and the containment provided by the pattern of residential development in the vicinity.

Character and appearance

12. The residential development at Pyle Hill is characterised by large detached, mostly two storey dwellings set within generous landscaped grounds. I observed that there were architectural differences in the form and materials. As such, coherence is principally derived from the verdant surroundings, broadly similar scale, spacing and their ordered relationship to the road. When viewed from Pyle Hill, this gives an impression of a sequence of impressive houses, each with an individual identity.
13. The existing wooden clad dwelling at the appeal site reflects some of these characteristics in terms of its position within the plot and verdant grounds. However, it is single storey, which combined with its simple form gives it a somewhat plain and ordinary appearance by comparison to its grander surroundings. Consequently, in this context it appears overwhelmed in the street scene. Overall, its unassuming appearance has a neutral impact on the character and appearance of the area.
14. The proposed two storey replacement dwelling would reflect an unashamedly contemporary design approach different to most of the more conventional building types seen in the road. Nevertheless, it would respect the underlying important characteristics identified as it would be of a broadly similar scale to nearby residential development. This is illustrated by comparing the proposed footprint⁴ of the dwelling with the dwellings that flank the site. In addition, the proposed street scene⁵ shows that the height of the dwelling would be beneath the roof ridge heights of the dwellings either side.
15. Moreover, the layout of the dwelling within its plot would broadly follow the established building line. This would maintain a similar set back from the road and ensure that the generous areas of garden were retained. It would also allow for balanced spacing between the upper floor of the proposed dwelling and those either side.

⁴ Proposed Site Plan, Drawing 1909/ST.10 Rev A

⁵ Front (north) elevation street scene, Drawing 1909 PL06.3 Rev F

16. Within these parameters, given the spacious context, there is some room for individuality when it comes to the appearance and form of dwellings. The proposed dwelling would have strong clean lines that would be visually attractive and distinctive. Consequently, it would add interest to, and have a greater presence in the street scene. As illustrated in the photo montage⁶ provided, the proposed use of different generally muted materials as well as fenestration features would distinguish separate components of the building. This would prevent the massing of the building from appearing overly bulky or unduly prominent in the street.
17. On this basis, the design would make a positive contribution to enriching the site, the street and the local area. It also seeks to incorporate Passive House principles⁷. These are design aspects encouraged by the urban design principles contained in the Woking Design Supplementary Planning Document, February 2015. Furthermore, in line with paragraph 130 c) of the Framework, it would ensure that the development was reasonably sympathetic to the local character of the surrounding built environment whilst not preventing innovation or change.
18. The Council consider that the flat roof and materials proposed would have an urban character unsuited to its context. However, other than the generous plots and established planting, I observed little in the varied form, proportions, scale and materials of nearby dwellings to suggest they are intrinsically semi-rural in character. Furthermore, like the existing dwelling, the proposal would use timber cladding and for the reasons already outlined, the proposal would conserve the fundamental qualities of the area.
19. Accordingly, I find that the proposal would make a positive contribution to the character and appearance of the area. It follows that I find no conflict with policy CS21 of the CS, which amongst other matters, requires developments that are attractive with their own distinct identity, that respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land. Neither would the proposal conflict with policy CS24 of the CS which primarily requires development to provide a positive benefit in terms of landscape and townscape character, and local distinctiveness.

Living conditions

20. Policy CS21 of the CS states amongst other things that development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or an overbearing effect due to bulk, proximity or outlook. The Council are concerned that the proposed replacement dwelling would have a harmful impact upon ground floor west facing windows in the side elevation of Cedar House by reason of outlook and loss of daylight.
21. Planning permission⁸ has been granted for works at Cedar House which suggests that the internal layout will go from including a single aspect study served by a window in the side elevation, to a larger games room with two

⁶ Figure 3, Appellant's Appeal Statement

⁷ Page 4, Design and Access Statement prepared by Kate Stoddart

⁸ Reference PLAN/2020/0450

windows in the side elevation and one in the front. However, evidence also points to subsequent amendments to the approved scheme. Although the Council points out there is no guarantee that the permission will be carried out, the representation received from the occupants of Cedar House state that the games room is under construction but will be served by two side windows and no front window. At my site visit I was able to visit Cedar House and observed that construction was underway. Two side windows for the games room are in situ, at present both have obscure glazing. Therefore, I have based my assessment on the games room having two side windows but have not assumed that the glazing will remain obscured.

22. Given the proximity of the windows to the boundary with the appeal site, the outlook from plain glazed ground floor windows would primarily be of the boundary fence. Furthermore, the existing side elevation of Hazels is approximately 1.85m⁹ from the boundary and so would be seen beyond the boundary fence. Accordingly, the outlook and light levels to the ground floor side windows of Cedar House in question would already be compromised to an extent. If the obscure glazing employed in the windows is retained this would further affect the outlook.
23. The proposal would not notably alter the relationship of the windows to the boundary fence or levels of the site. Although it would have a greater depth, the proposal would shift the dwelling further away from the boundary as illustrated on the proposed ground floor plan¹⁰, thereby increasing the gap between the buildings. Moreover, the part of the replacement dwelling nearest to the boundary would be single storey with the first floor component set further into the site some distance from the side boundary.
24. Taking these factors together, the proposal would not significantly alter the quality of the outlook or light levels for the ground floor windows on the side elevation of Cedar House. Therefore, any effect on the overall living conditions of the occupiers would be marginal rather than resulting in significant loss of daylight or harm to outlook. On that basis, it would meet the satisfactory relationship threshold in policy CS21 of the CS.
25. I have had regard to the Council's Outlook, Amenity, Privacy and Daylight, Supplementary Planning Document, July 2008 (SPD), and in particular paragraph 6.9 which states that when considering development proposals, it is important not to prejudice future daylight requirements by building too close to the boundary. For the reasons outlined, I am satisfied that the proposal would avoid doing so.
26. The guidance goes on to outline both a 43 and 25 degree test to which both parties refer. They disagree as to which is most relevant to the scheme before me. The SPD refers to both tests as a suitable means to check whether development would site buildings sufficiently well back from any rear boundary to allow future development of adjacent land to receive adequate access to daylight and retain sufficient space for daylighting its own accommodation which faces the boundary, should the adjoining land become developed¹¹. This scenario in the SPD does not closely correlate with the circumstances before me as it does not concern a rear boundary. Additionally, the illustrative

⁹ Paragraph 5.18, Appellant's Appeal Statement

¹⁰ Drawing number 1909 PL05.1 Rev L

¹¹ Paragraph 6.10

diagram referencing imaginary future mirror development in the SPD covers the situation where there has previously been no development on the adjacent land, which is also not the case. Therefore, these tests in the SPD carry little weight when assessing the proposal against the threshold set by policy CS21, and would not lead me to find otherwise.

27. Accordingly, I find that the proposal would achieve a satisfactory relationship with Cedar House by avoiding significant harmful impacts in terms of daylight or sunlight, or by having an overbearing effect on outlook. Consequently, I find no conflict with policy CS21 of the CS in this regard.

Other considerations

28. Prior approvals¹² exist for an additional storey and a single storey rear extension to be added to the dwelling under permitted development rights. In addition, a certificate of proposed lawful development has been granted for a side/rear extension, front porch and rear dormer roof extension. Whilst not all of the developments permitted could be carried out concurrently, the appellant has submitted illustrative plans as part of their appeal submission to show how these proposals could be combined. These show a two-storey dwelling with extensive single storey rear and side extensions. The appellants refer to this as a realistic fall-back position and explicitly state that the appellant would build it if the appeal failed¹³.
29. The fall-back position would provide for a detached four bedroom dwelling with an open plan living and kitchen area. The sequence of recent planning and prior approval applications signal that the appellant intends to increase and improve the existing accommodation at the site. Despite the Council's misgivings, although not the appellant's preferred approach, I accept that there is a realistic possibility of the permitted development being implemented in the absence of any other scheme. Therefore, the fallback position is a material consideration.
30. The appeal proposal would result in several advantages over the fall-back scheme. Firstly, the comparative measurements provided show that the fallback scheme would be greater in height, depth and volume. In addition, it would have a considerably larger footprint encompassing greater plot coverage meaning that built form would be more widely dispersed across the plot. The greater size of the fallback position is not disputed by the Council. In turn, this would have a more harmful spatial impact upon the openness of the Green Belt. The greater height and less compact form of the structure would result in a more obvious visual harm to openness.
31. However, this advantage would be undermined if the proposed replacement dwelling were in turn extended by virtue of permitted development rights normally afforded to dwellinghouses. Therefore, the clear improvement over the fall-back position in relation to the Green Belt is predicated on the proposed replacement having the normal rights to enlarge dwellinghouses restricted.
32. Furthermore, the design of the fall-back position is accurately described by the Council¹⁴ as piecemeal and contrived in appearance, but to a large extent, this reflects the constraints imposed by the permitted development rights. It would

¹² References PLAN/2020/0949 dated 8.12.20 & PLAN/2020/0323 dated 12.5.20

¹³ Paragraph 3.20, Appellant's Appeal Statement

¹⁴ Page 6, Council's Delegation Report

result in a dwelling with a disjointed and awkward appearance possessing little identity. By comparison, the scheme before me would be a coherent and considered design response to the context. It would represent a significant aesthetic improvement over the fall-back position. In addition, the functionality of the layout and the environmental performance of the appeal proposal would be likely to be superior.

33. Taking these factors together, I find that the fall back position would be considerably more harmful than the appeal proposal. Therefore, it attracts significant weight in favour of the development before me.

Other matters

34. Representations have been received both objecting and in favour of the proposal. Most of the matters raised have been covered when dealing with the main issues. However, the occupiers living either side of the appeal site raise concerns regarding a loss of their privacy. This was considered in the Council's Delegation report, with the Council concluding that there would be no material harm in this respect. Little substantive evidence has been submitted that leads me to any different view. Moreover, at my site visit I was able to observe the appeal site from the residential properties either side. Given the proposed separation distances, orientation of windows and balconies and proposed obscure glazing in certain windows, I am satisfied that the privacy of neighbouring residents would not be unacceptably harmed.

Green Belt balance

35. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Moreover, very special circumstances to allow inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, the proposal amounts to inappropriate development, and limited harm would be caused to the openness of the Green Belt. These factors attract substantial weight.
36. Nevertheless, the appellant has an alternative fallback position which is considerably more harmful to the openness of the Green Belt than the appeal proposal. Furthermore, unlike the scheme before me, the fallback position would not contribute positively to the character and appearance of the area.
37. The Council points out that permitted development is a common occurrence. Although rarity may be a relevant factor, I am not aware that other considerations must be the opposite of commonplace in order to be special. Rather it is a qualitative judgement that is required. In this case, it is the resultant impact upon the openness of the Green Belt that would otherwise be likely to arise that is determinative.
38. Accordingly, I find that the other considerations clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.
39. On that basis, the proposed development would accord with policy CS6 of the CS and policy DM13 of the DMP, whose principal objective is to protect the Green Belt from inappropriate development, save in the case where very special circumstances are shown.

Conditions

40. The Council suggested 11 conditions which I have considered against the Framework and Planning Practice Guidance (PPG). It is the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. In addition to the standard time period for the commencement of development, it is necessary in the interests of certainty to list the approved plans.
41. Given the weight given to the fallback position as an alternative to the appeal proposal, it is necessary and reasonable to ensure that the proposal remains preferable to the fall-back scheme. Hence, future reliance on permitted development rights to extend the development further should be prevented. Therefore, in order to protect the openness of the Green Belt, I am satisfied that there are exceptional circumstances to limit the permitted development rights for the proposed dwelling that would otherwise permit a notable enlargement of the dwelling or outbuildings. However, I am not persuaded that this needs to extend to the removal of the classes of permitted development that would allow for a hard surface or a small porch.
42. The Council suggest a pre-commencement condition to agree materials. However, the high threshold described in the PPG to justify such conditions has not been met. Moreover, the materials are indicated on the plans submitted and the plan-list condition requires the development to proceed in accordance with those. The area is not otherwise so sensitive that further details are required to make the proposal acceptable in planning terms.
43. The Council has also suggested a condition to require the removal of the existing garage in the interests of the openness of the Green Belt. However, the proposed garage would be constructed largely on the footprint of the existing structure¹⁵. Hence, logic dictates that it could not coexist with the proposed replacement garage. Therefore, I am not convinced this condition would be necessary.
44. To minimise the impact on protected bats and established trees at the appeal site the proposal should proceed in accordance with the recommendations made in the ecology and arboricultural reports provided. In addition, the bat report provided suggests enhancement measures to improve the habitat for bats, birds and invertebrates. These measures are conditioned as paragraph 180 of the Framework states that opportunities to enhance biodiversity in and around developments should be integrated as part of their design. A further specific condition relating to the timing of works and nesting birds is not necessary as this is covered by other legislation.
45. Policy CS22 of the CS and paragraph 112 e) of the Framework indicate that development should be designed to enable charging of plug-in and other ultra-low emission vehicles. Accordingly, it is reasonable to require provision to be made for this before the dwelling is occupied. However, it would be disproportionate to require specific details to be agreed with the Council or long-term control over this aspect of the development.
46. The Council has also suggested conditions to require additional technical requirements relating to emissions and water usage. The PPG states that the

¹⁵ Drawing number 1909/PL01.2 Rev H

Government's approach to setting such requirements is to give local planning authorities the option to set additional technical requirements exceeding the minimum standards required by Building Regulations in respect of access and water. However, this must be based on evidence and justified in policies in the development plan. Based on the evidence before me, it is not clearly shown that the requirements are based on the specific requirements of a development plan policy. Therefore, I have not imposed the conditions.

47. In addition, it is reasonable in the interests of maintaining privacy between neighbouring residential occupiers that the first floor secondary bedroom windows, bathroom and en-suite windows shown as obscure glazed with no openings below 1.7m from floor level on drawing 1909/PL05.2 Rev K are implemented and retained as such.

Conclusion

48. For the reasons given above I conclude that the appeal should be allowed.

Helen O'Connor

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Site Plan, drawing number 1909/ST.01 Rev A; Proposed Site Plan, drawing number 1909/ST.10 Rev A; Proposed Topographic Site Plan, drawing number 1909/PL01.2 Rev H; Proposed Ground Floor Plan, drawing number 1909/PL05.1 Rev L; Proposed First Floor Plan, drawing number 1909/PL05.2 Rev K; Proposed Roof Plan, drawing number 1909/PL05.3 Rev F; Proposed Elevations, drawing number 1909/PL06.1 Rev L; Proposed Elevations, drawing number 1909/PL06.2 Rev K; Proposed Context and Street Elevations, drawing number 1909/PL06.3 Rev F; Proposed Context Rear Elevation, drawing number 1909/PL06.4 Rev D; Proposed Garage, drawing number 1909/PL06.5 Rev A; Proposed Sections X & Y, drawing number 1909/PL07.1 Rev C; Proposed Sections Z & A, drawing number 1909/PL07.2 Rev C and Proposed Section B & C, drawing number 1909/PL07.3 Rev D.
- 3) Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Classes A, AA, B, and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no extension(s), additions(s) or the provision of any other building(s) within the curtilage other than that expressly authorised by this permission shall be constructed without planning permission being first obtained from the local planning authority.
- 4) The dwelling hereby permitted shall not be occupied until the first floor windows labelled as obscure glazed on drawing number 1909 PL05.2 Rev K have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
- 5) The development shall proceed in accordance with Section 10 of the Arboricultural Survey Implications Assessment and Arboricultural Method Statement reference RMT413 dated 1 April 2020 prepared by RMT Tree Consultancy Ltd.
- 6) The development shall proceed in accordance with the General Mitigation measures in Section 6 and Enhancement Recommendations in Section 7 of the Phase 2, Bat Emergence/Re-entry Report prepared by Darwin Ecology, dated July 2020.
- 7) The dwelling hereby permitted shall not be occupied until an electric vehicle charging point has been provided within the site.