

Appeal Decision

Site visit made on 25 April 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th May 2022

Appeal Ref: APP/R0335/D/21/3284337

Hunters Wood, 13 Prince Consort Drive, Ascot SL5 8AW

- 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 Ronan Gallagher against the decision of Bracknell Forest Borough Council.
 - The application Ref 21/00316/FUL, dated 23 March 2021, was refused by notice dated 16 August 2021.
 - The development proposed is for single and two storey rear extensions.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is in the Green Belt. Taking account of this, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policy and the National Planning Policy Framework (Framework);
 - its effect on the openness of the Green Belt; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify it.

Reasons

Inappropriate development

3. The appeal building is a large, detached two-storey house in a large, landscaped plot similar in size to many in Prince Consort Drive. The proposal is to demolish a conservatory and a pergola on the rear elevation then erect two rear extensions, one single-storey and the other two-storey.
4. The Framework states 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. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate development subject to certain exceptions. Relevant to this case is Framework paragraph 149 c). It 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.

5. Policy GB1 of the Bracknell Forest Borough Local Plan 2002 (LP) includes the Council's approach to the 'alteration or limited extension' of existing dwellings in the Green Belt. It sets out that a proposal is not inappropriate development so long as it does not result in a disproportionate addition over and above the size of the original building. Neither LP Policy GB1 nor the Framework define 'disproportionate additions'. The Council will normally consider an increase to be disproportionate if it exceeds 40% of the gross floor area of the 'original building' as it existed on or before 12 May 1980, or if built after this date, as so built. In the Framework the original building is as it existed on 1 July 1948, or if later then as it was built originally. This policy is not, therefore, entirely consistent with the Framework. I have taken this into account in my decision.
6. The appellant does not dispute the Council's calculations of gross floor area for the original, existing and enlarged (proposed) dwellings. On this basis, and taking previous extensions into account, even if the existing detached garage is excluded from assessment, the enlarged dwelling would still result in a substantial 78% increase in gross floor area compared to the original dwelling. This would be significantly greater than the 40% limitation set out in LP Policy GB1.
7. This policy also assesses proposals against matters such as design, siting and the overall scale of development on the site. The two-storey extension would be in the approximate position of the conservatory and not protrude as far in-depth from the rear elevation of the dwelling. However, it would be significantly wider. While there is no objective volumetric measurement in evidence, it would also clearly result in an appreciable cubic volume increase, especially at first floor and roof level. The floorplan of the single storey extension would be narrower than the pergola and not as deep. However, it would be taller to the top of its flat roof. Moreover, despite mainly glazed elevations, it would be a permanent structure, whereas the pergola is not, and would enclose an internal building volume, whereas the pergola does not.
8. Consequently, I find that the proposal would result in a disproportionate addition over and above the size of the original building and, as such would be inappropriate development in the Green Belt. It would, therefore, conflict with LP Policy GB1 and fail to meet the exception set out in Framework paragraph 149 c).

Openness

9. Where extensions are found to be disproportionate and inappropriate development it is also necessary to consider their effect on openness, which has a visual and a spatial aspect. In this regard LP Policy GB1 assesses proposals against matters such as visual and physical impact, the visual character of the site and its surroundings and its effect on openness. The proposal would result in development of appreciable additional height, form and overall scale and massing on the site, including where no such built form presently exists.
10. Accordingly, even though there would be no public views of the extensions or any adverse impact on the visual openness of the Green Belt, this combination of factors means that the proposal would have greater impact on the spatial

openness of the Green Belt than the existing development. This would be at odds with the aim of the Green Belt to keep land permanently open, and the purposes of including land within it, and would cause limited harm to the openness of the Green Belt. It would, therefore, not comply with LP Policy GB1 and conflict with Framework paragraphs 137 and 138.

Other Considerations

Permitted development

11. I have been referred to the potential exercise of a permitted development right (PDR) granted under Article 3(1) and Schedule 2, Part 1, Class AA¹ to enlarge the existing dwelling by up to two additional storeys, as represented in the plan provided by the appellant. The appellant contends that such a scheme would comply with the relevant exceptions, limitations or conditions of Class AA and have a more harmful impact on the Green Belt than the appeal proposal. However, prior approval must be granted before this particular PDR can be exercised. Consequently, this PDR does not accrue unless and until a particular proposal complies with the prior approval procedure and that procedure is completed².
12. Under the condition at paragraph AA.2(3)(a)(ii) of the Order the control of the external appearance of a dwelling house is not limited to impact on the subject property itself, but also includes impact on neighbouring premises and the locality³. The appeal decisions that I have been referred to⁴, which adopted a 'narrow' or 'limited' interpretation of this condition, pre-date the relevant up-to-date judgement. Consequently, they have no bearing on my decision.
13. Moreover, when determining a Class AA application for prior approval, under paragraph AA.3(12)(b) of the Order the local planning authority is obliged to have regard to the Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application. This therefore includes Framework paragraphs 130 c) and d) — which require development to be sympathetic to local character, including the surrounding built environment and maintain a strong sense of place using building types to create distinctive places to live.
14. The first floor of the proposed two-storey extension could be described as being above the ground floor part of this extension or above the existing conservatory to be demolished. Either way, it would not be constructed on the principal part of the dwellinghouse as defined by paragraph AA.4(1) of the Order. The proposal does not, therefore, lend weight to the suggested scheme for a Class AA extension.
15. The appellant also suggests that a fall-back position 'relates to any alternative means of extending the property which is permitted development', including a 'householder extension'. However, no specific proposal, including under Article 3(1) and Schedule 2, Part 1, Class A of the Order (enlargement, improvement or other alteration of a dwellinghouse) has been suggested or scheme presented. I am, therefore, unable to make any meaningful comparison to the appeal proposal. In any event, a planning condition to

¹ The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)

² *Murrell v Secretary of State for Communities and Local Government* [2011]

³ *Cab Housing Ltd & Others v SSLUHC* [2022] EWHC 208

⁴ APP/J1535/D/21/3266264 and APP/T1410/W/20/3263486

remove any or all of the above permitted development rights would not overcome the adverse effects of the proposal that I have identified in the main issues.

16. Notwithstanding the above, while a Class AA extension (or any other extension) may be capable of construction, there is no evidence of a greater than theoretical possibility that it might actually be carried out. Accordingly, the outcome of a Class AA prior approval procedure for the scheme suggested by the appellant cannot be guaranteed and there is, therefore, no real prospect of a Class AA (or any other) fall-back extension demonstrated in this appeal.

Purpose of the proposal

17. The new and improved living space would enhance the appellant's occupation and enjoyment of the appeal building. While I appreciate the appellant's aspiration, it would be a private benefit to those living in the property. It is not, therefore, a factor in the proposal's favour.

Green Belt Balance

18. I have found that the proposal would be inappropriate development in the Green Belt and would result in a small loss of openness. It would nonetheless fail to preserve openness and the scale of loss would still harm the intrinsic openness of the Green Belt, contrary to local and national policy to protect it. These are matters which the Framework requires me to give substantial weight.
19. The other considerations outlined above carry limited weight. Individually or collectively they do not, therefore, clearly outweigh the harm I have identified due to inappropriateness and loss of openness. Consequently, the very special circumstances to justify the proposal do not exist.

Planning Balance

20. The proposed development would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding.

Conclusion

21. For the reasons given above, I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR