



Appeal Decision

Site visit made on 28 February 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/Y3615/D/22/3304694

Green Tiles, Clandon Road, West Clandon GU4 7UU

- 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 Ms Kay Pysden against the decision of Guildford Borough Council.
 - The application Ref 21/P/02149, dated 9 November 2021, was refused by notice dated 17 May 2022.
 - The development proposed is for roof alterations comprising conversion of roofs from flat to pitched, including installation of solar panels/solar tiles; relocation and conversion of existing garage to green house, construction of double garage and enlargement of natural swimming pond.
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Decision

1. The appeal is dismissed insofar as it relates to the **garage, green house and pond**.
2. The appeal is allowed insofar as it relates to the **roof extensions and solar additions** and planning permission is granted for the conversion of roofs from flat to pitched, including installation of solar panels/solar tiles at Green Tiles, Clandon Road, West Clandon GU4 7UU in accordance with the terms of the application, Ref 21/P/02149, dated 9 November 2021, and the plans submitted with it so far as they are relevant to that part of the development hereby permitted, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GT-00; GT-18 Rev A and GT-23
 - 3) No development shall take place until details and/or samples of materials and finishes to be used for the external walls and roofs of the proposed building and details of the solar additions have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and/or samples.
 - 4) The development hereby approved shall be carried out in accordance with the recommendations of section 6 of the Bat Preliminary Roost Assessment, Great Crested Newt HSI and eDNA Survey dated June 2022 and shall be thereafter retained.

Preliminary Matters

3. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. The latter description more accurately reflects the scope of the proposed plans which were submitted, consulted upon, determined by the Council and are now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon that latter description for the purposes of the banner heading above.
4. The proposal subject to this appeal has four main elements consisting of i) alterations to the roof of the main dwellinghouse including installation of solar panels/solar tiles; ii) relocation and conversion of existing outbuilding to green house; iii) erection of a new garage and iv) the enlargement of an existing pond to form a natural swimming pond. For the purpose of brevity and clarity the elements of the proposal will be referred to in my decision as follows i) roof extensions and solar additions; ii) green house; iii) garage; and iv) pond.
5. With regard to the **roof extensions and solar additions** the Council have found this element would not result in a disproportionate addition to the original building. As a result, the Council consider that this element would benefit as an exception to policy under paragraph 149 c) of the National Planning Policy Framework (the Framework) and would not be inappropriate development in the Green Belt.
6. Furthermore, the Council have found that the development has no adverse effect on the character and appearance of the area or on the amenity of neighbouring occupants. I would concur with this assessment, and subsequently I shall confine my assessment of the scheme to the other elements on the main issues below.

Main Issues

7. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt; and
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether or not the proposal would be inappropriate

8. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. Policy P2 of the Guildford Borough Local Plan Strategy and Sites 2015-2034 (GSS) adopted April 2019 is consistent with the Framework in providing that inappropriate development will not be permitted unless very special circumstances can be justified or where they would meet the specific exceptions as contained in the Framework.

9. Criteria c) and d) of paragraph 149 has been cited by the appellant as pertinent to this appeal. Criterion c) states that one such exception is 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. The term building¹ includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. In applying this definition, the **garage** could be regarded as a 'building' for the purposes of the Framework. However, the appeal site is a large detached residential property, and the proposal seeks the introduction of new development some distance from the original property. As such, this cannot be considered an extension or alteration to that building and this exception would not apply.
10. Criterion d) relates to the replacement of a building providing the new building is in the same use and not materially larger than the one it replaces. The Framework does not provide a definition of 'materially larger' and therefore an assessment of whether a proposal would be materially larger than the replacement building is a matter of planning judgement.
11. In regard to the proposed **garage** it would have a footprint of approximately 48m², which would equate to an increase of 152% when calculated against the 19m² footprint of the existing outbuilding. Furthermore, the depth, albeit marginal, height and width of the proposed garage would all be larger than the existing outbuilding. As such, the replacement would be considered materially larger than the building it would replace. The garage fails to accord with GSS Policy P2 and paragraph 149 of the Framework. Accordingly, this element of the proposal would be inappropriate development in the Green Belt.
12. In respect to the **green house**, again criterion c) would not be applicable given the proposed siting is located well away from the dwellinghouse and could not be construed as an extension. Given that the proposal seeks to re-use the existing outbuilding as a green house, criterion d) would be more appropriate. However, GLP Policy P2 specifies that a new building will only constitute a 'replacement' if it is sited on or in a position that substantially overlaps that of the original building, unless it can be clearly demonstrated that an alternative position would not increase the overall impact on the openness of the Green Belt. Notwithstanding the appellants view that the green house involves replacement development, given the location of the green house some distance away from its original position, and because of my finding below in relation to openness, this exception would also not apply.
13. Consequently, the green house fails to accord with GSS Policy P2 and paragraph 149 of the Framework. Accordingly, this element of the proposal would also be inappropriate development in the Green Belt.
14. In respect to the **pond**, this could be considered an engineering operation under the Town and Country Planning Act 1990 (as amended). Paragraph 150 of the Framework sets out certain other forms of development which are also not inappropriate in Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. Criterion b) of paragraph 150 provides for engineering operations. As with the green house above, because of my finding below in relation to openness, this exception would not apply, and consequently, this element of the proposal would constitute inappropriate development in the Green Belt as well.

¹ Section 336 of the Town and Country Planning Act 1990

Effect on openness in the Green Belt

15. There are spatial and visual aspects to the assessment of the openness of the Green Belt. In spatial terms, the **garage, green house** and **pond** elements of the scheme would provide a larger quantum of built development than currently exist on site. Whilst modest, these would nevertheless have an adverse impact on the openness of the Green Belt in spatial terms.
16. With regard to the visual aspect, the property and its curtilage have limited public views along Clandon Road given the existing gated treatment and closed board fencing along the roadside boundary. The site itself also occupies a ribbon of residential development, which contrast with the much less developed open spaces that surround the area. Both the **green house** and the **pond** would be located at the rear of the dwellinghouse, which would obscure these elements from most public views. Whilst the **garage** would be located to the front of the property, the existing boundary treatments would screen the proposal from public vantage points. Therefore, I conclude in visual terms, that these elements of the appeal scheme would have no significant effect on the visual aspect of openness of the Green Belt.
17. Overall, whilst I find there would be no harm to the visual dimension of the openness of the Green Belt, there would be to the spatial dimension. Therefore, the proposal fails to preserve the openness of the Green Belt.

Other considerations

18. The appellant's Preliminary Ecological Appraisal (PEA)² submitted with the appeal scheme sets out that the appeal site is not considered to be inhabited by Great Crested Newts. However, the PEA did indicate that the area was identified as suitable for foraging and commuting bats. The assessment further concluded that enhancement measures for commuting bats could be incorporated as part of any proposed scheme.
19. The PEA further highlights that existing habitats could be sensitively managed during the construction phase and provided several biodiversity enhancement recommendations to ensure that as much habitat as possible is retained and enhanced post development. The biodiversity enhancement recommendations could therefore be secured by condition.
20. The Council has not submitted any evidence to counter the findings of the submitted PEA, and what has been proposed by the appellant satisfactorily demonstrates that any harm to habitats could be suitably mitigated due to the measures proposed. Consequently, I conclude that subject to conditions the proposal would protect biodiversity and wildlife habitats. It would therefore accord with saved Policy NE4 of the Guildford Borough Local Plan (GLP), adopted January 2003 which amongst other things, seek to manage and enhance habitats of protected species.
21. While the introduction of larger ancillary accommodation would provide the appellant with the ability to park vehicles inside the proposed garage, unlike the existing outbuilding, given the existing levels of hardstanding and areas for off-street parking at the site, the current layout appears to be functional and

² Bat Preliminary Roost Assessment, Great Crested Newt HSI and eDNA Survey prepared by Surrey Wildlife Trust (ref: 5996-1 Report 1.0) dated July 2022.

sufficient to provide an adequate living environment for its occupants. Accordingly, I give this matter limited weight.

22. The Council consider the development has no adverse effect on the character and appearance of the area, the amenity of neighbouring occupants or any impact on trees. Nonetheless, the absence of harm in these regards does not carry positive weight in favour of these aspects of the development.

Green Belt balance

23. The development plan and the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
24. In this particular case, none of the other considerations put forward do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness and the harm to openness that I have identified above. Consequently, the very special circumstances necessary to justify the development do not exist.

Conditions

25. In relation to the **roof extensions and solar additions** I have imposed conditions requiring commencement of the development within three years and for the development to be carried out in accordance with the approved plans for certainty. I have also imposed a condition in respect to material specification in order to ensure an acceptable visual effect. In order to mitigate any harm to protected habitats I have imposed a condition ensuring that the biodiversity enhancement recommendations contained in the PEA are undertaken.

Conclusion

26. Having had regard to the development plan as a whole and all other material considerations, I consider that the proposal is acceptable in part only. The appeal is therefore allowed insofar as it relates to the **roof extensions and solar additions**. However, for the reasons given, and having had regard to all other relevant matters raised, the appeal is dismissed insofar as it relates to the proposed **garage, green house and pond**.

Robert Naylor

INSPECTOR