



Appeal Decision

Site visit made on 23 February 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/K3605/W/22/3307067

Nursery Cottage, Burhill, Hersham, Walton-On-Thames KT12 4BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by R Davis against the decision of Elmbridge Borough Council.
 - The application Ref 2021/2903, dated 9 August 2021, was refused by notice dated 18 March 2022.
 - The application sought planning permission for detached two-storey house with basement following demolition of existing house without complying with a condition attached to planning permission Ref 2017/3556, dated 4 April 2018.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: 01 Rev B received on 01.12.2017. 18 Rev E received on 10.11.2017. 02 Rev F, 12 Rev D, 13 Rev E, 14 Rev E, 15 Rev C, 16 Rev G received on 7 March 2018.
 - The reason given for the condition is: To ensure that the development is carried out in a satisfactory manner.
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Decision

1. The appeal is dismissed.

Preliminary Matters, Background and Main Issues

2. Planning permission was granted in 2018 for a detached two-storey house with basement following demolition of the existing house. I saw on my site visit that the development is substantially complete and appeared to be occupied, however the existing house is yet to be demolished.
3. Additionally, the replacement building as constructed features what appears to be a large porch in the location where a relatively modest portico is shown on the proposed plans. Notwithstanding this, I have determined the appeal based on the proposed plans before me.
4. The original planning permission (Ref 2017/3556) was subject to a condition (No 2) that stipulated that the development must be carried out in accordance with the approved plans. The appeal is seeking to vary condition No 2 to amend the approved plans, including changes to the roof design of the house.
5. The main issues are therefore:
 - Whether the amended 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 amended proposal on the openness of the Green Belt; and
- Whether any harm by reasons of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the amended proposal would be inappropriate development

6. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework indicates that, other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. This includes (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
7. Annex 1 of the Framework indicates that the weight afforded to development plan policies should accord with their degree of consistency with the Framework. DM18 of the Elmbridge Local Plan Development Management Plan April 2015 (the DMP) refers to replacement of buildings in the Green Belt. It is more prescriptive than the Framework, including requirements that proposals do not result in an increase beyond 10% in volume and 10% in footprint and do not materially increase the overall height of the building. The policy also indicates that basements will not be counted in the volume and footprint calculation provided it is wholly subterranean and does not exceed the footprint of the existing building. I consider these criteria are consistent with paragraph 149(d) in respect of its aims of ensuring replacement buildings in the Green Belt are not materially larger than the ones they replace. Accordingly, I attribute considerable weight to them.
8. The evidence indicates the replacement building as originally approved has a smaller footprint than the original dwelling, albeit it has a volume above ground approximately 8.5% greater. Its height is also greater by approximately 50cm, which the Council considered was not material.
9. The Council contend that the amended proposal would however result in an increase of 31.3m³ in the volume of the building. However, the appellant indicates that the existing roof forms a false roofscape, which the proposal would extend, maintaining a hollow space beyond the ridge. The appellant thus states that the proposal would constitute only 9.4m³ in additional volume.
10. Additionally, the appellant advises that the entire building has been set down further into the ground, thereby actually reducing the volume of the replacement building above ground by 17.2m³ compared to the approved development, even after the roof extension is taken into account. However, the proposed elevation plans before me do not clearly articulate this. The building is shown in the same position relative to the "+17.88 datum level" on both the approved elevation plans and the proposed plans, with the overall height of the approved building the same on both. I am therefore not persuaded by the plans before me that this would negate the increase in volume.

11. The proposed plans indicate the overall height of the building would increase by 67cm. The evidence before me indicates that, combined with the 50cm increase over the original dwelling, this would amount to a greater than 18% increase in the overall height of the replacement building as extended. Even if I were to conclude the proposed increase in volume would not go beyond the 10% limit set out in Policy DMP18, the overall height of the replacement building would be materially greater than that of the original dwelling.
12. The amended proposal therefore would not comply with the requirements of Policy DM18 of the DMP in this regard. In view of this, I consider that the proposal would result in a new building that is materially larger than the one it replaces and so would not benefit from the exception set out in paragraph 149(d) of the Framework. It would therefore constitute inappropriate development in the Green Belt when assessed against these.

Effect on openness

13. The appeal site comprises a parcel of land within the Green Belt to the north of the original dwelling at Nursery Cottage. The site is accessed via a private road, with the access route shared with a neighbouring dwelling. The land immediately surrounding the site accommodates several outbuildings, a tennis court, a long driveway and parking areas. There is a golf course to the west, and the site is surrounded by paddocks to the north, east and south. There are scattered trees to the north and east of the replacement building, and site boundaries also typically feature narrow bands of tree and shrub planting.
14. The original dwelling, while having a considerable footprint, has a relatively low overall height, with the first floor integrated into the roof space. It also sits close to the southern corner of the site, benefitting from considerable screening provided by vegetation along the site boundaries. It therefore has a modest presence in the surrounding landscape.
15. The replacement building to which the appeal relates is located in a more open area, away from site boundaries. While it still benefits from screening provided by nearby trees, particularly in longer views, it is more exposed overall and can be seen approaching the site along Turners Lane. However, the approved design maintains a relatively modest roof form and overall height.
16. The amended proposal would materially increase the height of the replacement building, emphasising its presence to an extent that would detract from the openness of the Green Belt in this location, in both visual and spatial terms. This would result in harm to the Green Belt which I apportion substantial weight to, in accordance with paragraph 148 of the Framework.

Other considerations

17. The appellant considers that the proposal would give the roof form a more related appearance to the host dwelling. Even if I were to agree with this, I do not find the approved roof design to be incongruous and so this would be a very modest benefit.

Conclusion

18. The appeal proposal comprises inappropriate development that is harmful to the Green Belt. I give this harm substantial weight as required by the Framework. I have considered the matters put before me in favour of the

scheme. However, there are no other considerations that clearly outweigh the substantial weight I have afforded to the Green Belt harm arising from the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.

19. The amended proposal (without complying with condition No 2) conflicts with the development plan, taken as a whole, and I have found no material considerations that indicate the proposal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR