



Appeal Decision

Site visit made on 11 December 2023 and 8 January 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2024

Appeal Ref: APP/Y3615/W/23/3323114

Wilderness Cottage, Hatch Lane, Ockham, Woking KT11 1NR

- 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 A Larter against the decision of Guildford Borough Council.
 - The application Ref 23/P/00157, dated 30 January 2023, was refused by notice dated 23 March 2023.
 - The development proposed was described as 'erection of a replacement dwelling (revision of 21/P/02204 and resubmission of withdrawn application 22/P/01024)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework was revised on 19 December 2023 (the Framework). There are no relevant material changes but I have referred to equivalent re-numbered paragraphs where necessary. A second site visit was mainly to view part of the development on the site that was previously externally locked and internally inaccessible.

Background and Main Issues

3. Wilderness Cottage and a detached garden outbuilding are in the countryside in the Green Belt. Both buildings would be demolished and replaced by a new house on the site. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt, having regard to local and national planning policy;
 - if it is inappropriate development, its effect on the openness of the Green Belt; and
 - whether any harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations to amount to very special circumstances required to justify the proposal.

Reasons

Planning policy

4. The Council's Policy P2 resists inappropriate development in the Green Belt unless there are very special circumstances¹. It also sets out that the construction of new buildings in the Green Belt will constitute inappropriate

¹ Guildford Borough Local Plan: Strategy and Sites, April 2019

development unless within the list of exceptions identified by the Framework. Additionally, very special circumstances will not exist unless potential harm to the Green Belt by inappropriateness and any other harm is clearly outweighed by other considerations.

5. These aspects of Policy P2 are consistent with objectives of the Framework to protect Green Belt land and to regard the construction of new buildings as inappropriate development in the Green Belt, subject to certain exceptions. The main parties agree that the exception at paragraph 154 d) is relevant in this case. It is for replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The Framework also sets out that the essential characteristics of Green Belts are their openness and permanence and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. For the purposes of Policy P2 a new building will be a replacement if it is sited on or in a position that substantially overlaps 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.

Whether inappropriate development

Use

7. An older two-storey structure and a subsequent single-storey side (north) extension are in use as the dwellinghouse Wilderness Cottage. This building to be replaced is therefore in the same use as the proposed new building.
8. However, though well-advanced, more recent single-storey rear (west) and side (south) extensions are incomplete with some structure and fabric temporary in nature; essentially little more than rudimentary external shells including boarded floors, concrete block walls and vinyl sheet or tarpaulin roof coverings over boarding. The west extension has windows but no internal access from Wilderness Cottage and significant water or moisture ingress has made the floor rotten and unsafe, with partial collapse. The south extension, as built, has no windows and although a door gives internal access from Wilderness Cottage, it is through an alcove used to hang stored clothes so restricts its practical use.
9. Consequently, neither extension is fitted out or finished for habitation as permanent living accommodation integral to Wilderness Cottage. Moreover, storage of domestic items, such as tables or chairs not in any apparent active use and at risk of degradation by exposure to the elements, or the placement of shelving/racking and tools or equipment, is more akin to an attached domestic storage building or shed use. Both extensions are therefore in use incidental to the enjoyment of Wilderness Cottage.
10. The timber outbuilding includes sofas, a pool table, darts board, fridge and TV. There was also a washing machine but it is mainly a games room or used for entertaining incidental to the enjoyment of Wilderness Cottage.
11. As a matter of fact and degree, the west and south extensions and the outbuilding are therefore not in dwellinghouse use. A group of buildings may possibly be replaced by a single building under Framework paragraph 154 d). However, in this case, and considering the relationships between these

buildings on the site in comparison with what would replace them (all habitable living accommodation forming a dwellinghouse) these buildings to be replaced would not be in the same use as the new building.

Materially larger

12. As a result, despite included in the appellant's table of measurements², the west and south extensions and the outbuilding do not establish part of the alleged baseline 'existing dwelling' building to be replaced.
13. On this basis, and also with regard to dimensions and measurements in the appellant's plans and what I saw, the extent of physical built development on the site would increase substantially in absolute and percentage terms – in footprint gross external area (GEA) from about 52 to 113 sq.m (+117%), in first floor GEA from about 35 to 109 sq.m (+211%) and in building volume from about 233 to 598 cu.m (+157%)³. In the table, even 36 sq.m first floor area would substantially increase to 94 sq.m over 1.5m in height (+161).
14. While the new building would not be noticeably wider, the main floorplan would be appreciably deeper and a front wing results in an L-shaped, not rectangular floorplan. Albeit a slightly lower eaves level and comparable ridge height, there would be substantially greater scale, massing and bulk of built form at first floor/roof level especially either end of the building, including a much longer main ridge line, full gabled elevations and several pitched roof, gabled dormer windows. Bedrooms would increase from 2 to 4.
15. Neither Policy P2 nor the Framework define 'materially larger'. But assessed by any and all the preceding objective measures the new building would be materially larger than the one it replaced.
16. If the west and south extensions and the outbuilding were part of the baseline there would be a commensurate reduction in footprint GEA from about 160 to 113 sq.m (-29%) with a small increase in building volume from about 570 to 598 cu.m (+5%). However, this would not alter or off-set the most profound increases in overall floor area or building volume at first floor/roof level, nor the change in building form and number of bedrooms. The new building would still be materially larger than the ones it replaced.
17. The Council granted planning permission elsewhere in the Green Belt for a replacement dwelling, agreeing it had a 'not substantial' 25% floor area increase⁴. However, it was a bungalow replacing a bungalow so footprint was the matter in hand with no floor area change at first floor level. The percentage change in that case was anyway significantly smaller than the equivalent in this appeal. This decision is not comparable.

Siting

18. Policy P2 defines 'original building' for the purposes of the Framework Green Belt exceptions under a heading 'extensions or alterations' but is also used in the Policy P2 definition of replacement buildings. The Council's reason for refusal refers to the house as not overlapping with the 'existing' building, though the officer report also refers to original building.

² After paragraph 7.18 of the Planning Supporting Statement, January 2023 (D&M Planning)

³ There are unexplained differences between some figures in the appellant's table and in the plans and some figures are not comparable or equivalent, but no evidence that this would make a significant difference

⁴ 22/P/01211

19. In the absence of evidence to the contrary, the original building is the older two-storey part of Wilderness Cottage so the house would not overlap it. The existing building includes the single-storey side (north) extension. A small part of the house would overlap most of this extension but not much of the existing building, whether taken as Wilderness Cottage or including the west and south extensions, so only partially overlap. As such, it would not substantially overlap the original building for the purposes of Policy P2 or the existing building.
20. The bungalow referred to above did not overlap an original dwelling but the officer report found it 'would not impact adversely on the openness of the Green Belt'. Though not under an openness heading, the Council had regard to the alternative position of the bungalow. In this appeal the alternative position of the house would not be 'far from the existing building', as the Council may have unintentionally stated, but in siting and size it would increase impact on the openness of the Green Belt as explained in the second main issue below.

Conclusion

21. Considering use, size and siting I find that the house does not comply with Policy P2 and in use and size it fails to meet the Green Belt exception at Framework paragraph 154 d). The proposal would, therefore, be inappropriate development in the Green Belt.

Effect on openness

22. Wilderness Cottage is near two site boundaries so nestles relatively innocuously into a corner next to an immediate backdrop of hedgerow, shrubs or trees. In contrast, almost half of the bulk of the house would protrude further forward and sideways into the more exposed, central part of the site. Despite the removal of the outbuilding and a consolidation of built form, and therefore no significant change to resulting artificial light spill at the site overall, the materially larger size of the house (particularly at first floor/roof level) would establish a building on a part of the site where there is little development at present. It would not spread beyond the site or into the wider countryside but nonetheless not safeguard this part of the countryside from this incursion.
23. The site would therefore no longer be open in any equivalent or comparative sense to its existing condition, nor would it remain unchanged. The house would have a significant permanent innate spatial presence, including in this part of Hatch Lane and though set back narrow end on, a clear visual presence in views alongside the long site boundary with the lane which is a public bridleway.
24. Consequently, I find that the house would have a greater impact on the openness of the Green Belt than the existing development. Albeit a small loss overall this would reduce the openness of the Green Belt and not maintain its permanence and be at odds with a purpose of the Green Belt to safeguard countryside from encroachment. As such the proposal is contrary to Policy P2 and Framework paragraphs 142 and 143 c).

Other considerations

Replacement dwelling

25. The proposal would improve the standard and amount of living accommodation compared to what exists, including in outlook and natural light, and sustain

employment during demolitions and as the house, which would be energy and water efficient, was built. This would align with objectives of the Framework to ensure a high standard of amenity for occupants, sustain the economy and meet the challenge of climate change. However, there is no objective evidence of any identified need for a 4-bedroom family size house in this location or that the house is the only way to achieve these outcomes. The social, economic and environmental benefits of constructing and occupying the house would be small so have limited weight.

Fallback

26. There is no evidence of serious intention to complete the south or west extensions and one has not been well maintained. Nor thereafter that they be lived in as part of Wilderness Cottage. While this is still possible it is therefore not likely, even if the appeal was dismissed. Accordingly, this consideration has little weight.

Character and appearance of the area

27. The early 20th century two-storey part of Wilderness Cottage is interesting in design and external materials; the single storey side (north) extension is a sympathetic subordinate timber clad addition. Albeit lawful development⁵ or permitted development⁶ and not finished, the south and west extensions have a disparate or disjointed influence which detracts from appreciation of Wilderness Cottage. But it is not a listed building or of local merit and the site is not in a conservation area. Replacing this built form (and outbuilding) with the cohesive, well-designed, high quality proposed house with appropriate rural vernacular would have a positive effect on the character and appearance of the area, albeit this house is not the only way this could be achieved. While important this environmental benefit of a single house has moderate weight.

Biodiversity at and near the site

28. Subject to planning conditions the proposal would retain trees on the site (there is no objective evidence any are Ancient Woodland) and result in additional landscaping. However, the appellant's ecology surveys and report are more than two years old⁷. The Council's officer report did not suggest any significant change at the site since and this information was prepared for previous similar proposed development. Nevertheless, it is now time expired so potentially unreliable and the comments of Surrey Wildlife Trust (SWT)⁸ received after the Council's decision are before me in this appeal.
29. The appellant has given no objective evidence by a competent person in these regards⁹. I therefore have no reason to find that protected species surveys for badger and great crested newts and protected hedgerow habitat survey are not necessary; or that information about potential impact of the proposal on a nearby Site of Special Scientific Interest, a Local Nature Reserve and a Site of Nature Conservation Importance is not required, including consultation with Natural England, as recommended by SWT.

⁵ 21/P/01042

⁶ 21/W/00067

⁷ Letter ref 213406/ARB, November 2021 (AA Environmental)

⁸ 6 April 2023

⁹ Framework Annex 2: Glossary

30. While SWT has suggested some conditions the outstanding information, including up-to-date compensation or mitigation measures, is relevant to a decision in principle to grant planning permission, so cannot be left to a post-permission stage. I am therefore not satisfied the appellant has sufficiently demonstrated the claimed biodiversity enhancements and net gain, so I give significantly reduced weight to these considerations.

Conditions

31. The appellant objected to one of the Council's suggested conditions but none of these conditions would overcome the adverse impact on the Green Belt.

Previous proposal

32. The house is smaller than a replacement dwelling previously refused planning permission on the site in a different position¹⁰. It also follows a previously withdrawn similar application¹¹. However, neither consideration alters the comparison between what is on the site and proposed in this appeal, which I have considered on its individual planning merits.

Green Belt Balance

33. The proposal is inappropriate development in the Green Belt and would harm the openness of the Green Belt, contrary to local and national policy to protect the Green Belt. Each of these issues have substantial weight against the proposal. Accordingly, the other considerations outlined above in support of the proposal would not individually or collectively clearly outweigh the harm to the Green Belt due to inappropriateness and its effect on openness. Consequently, very special circumstances to justify the proposal do not exist.

Other Matters

34. I have not been informed about any planning policy resisting the loss of small dwellings relevant to this case and it was not a reason for refusal. Alleged breaches of planning control at the site are a matter for the Council.
35. Subject to planning conditions the proposal would be acceptable with regard to surface water flood risk and foul drainage, parking, access and traffic generation, suitable in terms of internal and external living conditions for occupiers of the proposed dwelling and not adversely affect the living conditions of the occupiers of any other dwelling. The absence of harm in these regards is a neutral factor in my decision.
36. The site is within a zone of influence of the Thames Basin Heaths Special Protection Area (the SPA) which is a European site protected due to habitat and species important for nature conservation. According to the appellant, Policy P5 sets out that permission will not be granted for development that results in a net increase in residential units within this zone¹². On this basis the appellant considers the proposal would have no likely significant effect on the integrity of these features of the SPA and cause no harm to the nature conservation interests of the SPA. As the Competent Authority it would ordinarily be necessary for me to undertake Appropriate Assessment¹³. But as I intend to

¹⁰ 21/P/02204

¹¹ 22/P/01024

¹² Guildford Borough Local Plan: Strategy and Sites, April 2019

¹³ The Conservation of Habitats and Species Regulations 2017 (as amended)

dismiss the appeal, even if the proposal did not adversely affect the integrity of the European site there is no need for me to consider this matter any further. This is because it would not affect my decision or therefore alter the outcome of the appeal.

Planning Balance and Final Conclusion

37. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan¹⁴. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

¹⁴ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12