



Appeal Decision

Site visit made on 7 February 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/M3645/D/23/3328011

The Old Laundry, Ledgers Road, Warlingham CR6 9QA

- 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 Mrs Michelle Butler against the decision of Tandridge District Council.
 - The application Ref TA/2022/1434, dated 29 October 2022, was refused by notice dated 7 June 2023.
 - The development proposed is the erection of a single-storey rear extension which will extend 3500mm from the rear facade of the existing building and will be 7270mm wide.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice and appellant's appeal form as they more succinctly describe that for which permission is sought.
3. A revised National Planning Policy Framework (the Framework) was published by the Government after the determination of the planning application. It does not raise any new considerations in relation to this appeal.

Main Issues

4. The main issues are:
 - a) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - b) the effect of the proposal on the openness of the Green Belt; and
 - c) whether any harm by reason 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 Inappropriate Development

5. The Framework establishes that building in the Green Belt would be inappropriate unless it would meet one of the listed exceptions. Paragraph 154(c) explains that the extension or alteration of a building would not be inappropriate development provided that it would not result in disproportionate

additions over and above the size of the original building. Policies DP10 and DP13 of the Tandridge Local Plan 2014 (TLP) are broadly consistent with the Framework insofar as seeking to ensure inappropriate development in the Green Belt is resisted and that extensions or alterations to buildings in the Green Belt are not disproportionate to the original building.

6. The Framework explains in its glossary that the original building is the building that existed on 1 July 1948 or, if constructed after this time, as it was built originally. For the purposes of this appeal, the TLP defines the 'original building' as it existed on 31 December 1968 or, if constructed after 1968, as it was built originally.
7. Moreover, Policy DP13 also notes that when assessing proposals for the extension of a building which is itself a replacement of a previous building (as is the case here), the Council will consider that previous building in comparison with the replacement building and the proposed extension, in order to determine whether the proposal would result in a disproportionate addition.
8. The Council has assessed the proposal as per Policy DP13. The Appellant asserts that in relation to this appeal, it is the replacement building that should constitute the 'original building' and be the baseline for assessing whether the proposal would be disproportionate.
9. The judgement in *Guildford Borough Council v SSLUHC & Christopher Weeks*, [2023] EWHC 575 (Admin) has established that in a planning policy context such as the one before me, it is the earlier, previous building which should be the baseline for any consideration as to the proportionality of further development, rather than the replacement building. This is a material consideration of substantial weight in my consideration of this appeal.
10. There is a further dispute between the main parties as to the exact sizes of the pre-existing and replacement buildings. Nevertheless, if I take the figures presented by the appellant, and based on the March 2012 appeal decision, the pre-existing building was said to be 518m³. It is not clear from the evidence presented whether this figure included the double garage and conservatory that were approved in 1994 and 2002 respectively but it seems likely that they would have been included within this 518m³ figure. If that were the case the original building may well have been smaller than 518m³.
11. However, putting that to one side for the moment, the appellant confirms that the existing property was constructed to a volume of 863m³. A first floor extension and new bay windows have subsequently extended the building by a further 46m³. This would give the current building a volume of 909m³. This is approximately 75% over the volume of the stated pre-existing figure of 518m³.
12. The appellant also provides a comparison of footprints. However, the reference to pre-existing footprint refers to 'buildings' and so presumably includes the double garage approved in 1994. The difference between the footprint of the original building and what would result from the current proposal is therefore likely to be greater than the appellant suggests.
13. The proposed extension would have a volume of around 74m³. This represents an overall volumetric increase to the existing dwelling of around 14%, when taken together with the previous extensions and alterations to this building. This would be a modest and limited extension in comparison to the existing

building. Nonetheless, it would further increase the mass of development on site when compared to the baseline as set by the size of the pre-existing building.

14. Based on the evidence before me, there would be a substantial increase in the size of the dwelling when compared to the more modest original building. Therefore, as a matter of judgement, I conclude that the overall size of the building as now proposed cannot reasonably be considered to result in anything but disproportionate additions over and above the size of the original building.
15. Thus, having regard to the Framework and Council policies DP10 and DP13 as outlined above, I am unable to conclude other than that the extension would be inappropriate development in the Green Belt.

Openness

16. Paragraph 142 of the Framework states: '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'. Openness is not defined in the Framework but in determining the nature and extent of any impact on Green Belt openness it is necessary to assess both spatial and visual impacts.
17. The proposed extension would be to the rear of the property, positioned between the two existing bay windows on this rear elevation. It would be a largely glazed structure and have the existing dwelling as an immediate backdrop.
18. Maintaining openness does not necessarily mean that there can be no change, as the overall situation needs to be considered in relation to both the visual and spatial effects of the proposed development. Notwithstanding that there may have been a reduction in openness across the site in the past, having regard to just the current proposal, I do not find harm to Green Belt openness.

Other Considerations

19. The current dwelling is said to be in an entirely different location to the pre-existing dwelling and thus there was previously no dwelling on this part of the site. Whilst the replacement dwelling may have been set back a couple of metres from where the previous building stood, it was nevertheless a direct replacement for an existing building. This is evident from the description of development 'Demolition of dwelling. Erection of dwelling' in the TA/2011/1222 decision notice. This is further confirmed by condition 6 of the permission, which clearly required the demolition of the existing dwelling and outbuilding within 3 months of the replacement dwelling being occupied. From what I have read, this positioning seems to have been in order to minimise the effect of the building on the wider area and there is nothing before me to suggest that this means it should not be regarded as a replacement.
20. The appellant notes that had permitted development rights not been removed from the existing dwelling by condition then the proposal could be erected without needing the current application and appeal. However, this is not an appeal against that condition or its reasons for being imposed.
21. I am also mindful that the decision to permit the replacement dwelling was taken in a different policy context and pre-dates the current TLP and more

specifically Policy DP13. The current policy context carries far greater weight than the Green Belt not being part of the rationale for previously withdrawing permitted development rights.

22. The appellant draws my attention to how the Council assessed some previous proposals on the site. Their approach in these schemes, as well as the current case, is said to be flawed. However, I have considered the current proposal on the basis of the evidence before me, including the Framework, development plan policies and case law. Accordingly, the appellant's concerns regarding the Council's approach to decision making does not alter my own conclusions.

Green Belt Balance

23. The development is inappropriate development in the Green Belt which by definition is harmful, notwithstanding there is no harm arising from the extension to openness or the purposes of including land within the Green Belt. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
24. The weight I could ascribe to those considerations in favour of the proposed development would be limited and insufficient to justify the proposed development, owing to the substantial weight that should be attached to any harm to the Green Belt. Very special circumstances do not therefore exist.

Planning Balance

25. There would be an overall conflict with policies in the TLP when taken as a whole and the proposal would be contrary to the provisions of the Framework in relation to the protection of the Green Belt. Collectively, these weigh heavily against the proposal and there are no other considerations which outweigh them.
26. Therefore, having regard to the development plan and all other material considerations, including the Framework, the appeal should not succeed.

Conclusion

27. For the reasons given above, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR