



Appeal Decision

Site visit made on 11 October 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2024

Appeal Ref: APP/Y3615/D/21/3281755

Foxwell Cottage, Hunts Hill Road, Normandy, Guilford GU3 2AH

- 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 Christopher Weeks against the decision of Guildford Borough Council.
 - The application Ref 21/P/00575, dated 16 March 2021, was refused by notice dated 4 June 2021.
 - The development proposed is described as "Proposal to change the existing garage with a bedroom above it to an annexe with additional area approximately 5m x 5.8m area to the west gable of the garage and 1m x 5m area to the south aspect of the existing garage. Another part of the proposal is to add an extension to the east elevation of 3m x 6m housing of the ground source pump and an outside covered area for shelter. This ground source heat pump will serve both the main house and the proposed annexe. The proposed floor plan has an added footprint of less than 20 percent of the existing footprint. The proposal of roofline is 800mm higher than the existing garage with bedroom above and the new additional gables are 300mm below the new ridge line. This is 700mm lower than the main house".
 - This decision supersedes that issued on 20 May 2022. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is allowed and planning permission is granted for the development described as "Proposal to change the existing garage with a bedroom above it to an annexe with additional area approximately 5m x 5.8m area to the west gable of the garage and 1m x 5m area to the south aspect of the existing garage. Another part of the proposal is to add an extension to the east elevation of 3m x 6m housing of the ground source pump and an outside covered area for shelter. This ground source heat pump will serve both the main house and the proposed annexe. The proposed floor plan has an added footprint of less than 20 percent of the existing footprint. The proposal of roofline is 800mm higher than the existing garage with bedroom above and the new additional gables are 300mm below the new ridge line. This is 700mm lower than the main house" at Foxwell Cottage, Hunts Hill Road, Guilford GU3 2AH in accordance with the terms of the application, Ref 21/P/00575, subject to the conditions in the attached schedule.

Preliminary Matters

2. This appeal is a redetermination following a successful High Court Challenge by Guildford Borough Council resulting in the quashing of the previous appeal decision. I have had regard to the previous appeal, where material.

3. It is my role to redetermine the case afresh in light of the above, but not to review the previous appeal decision. The main parties have had the opportunity to present representations on the case following the quashing of the previous appeal decision and I have taken these into account.
4. The Council confirms that Guildford's 'Local Plan Development Management Policies' (LPDMP) was adopted by the Council on 22 March 2023. This now forms part of the statutory development plan, and the policies are given full weight. As such, policies G5 and H8 of the Guildford Local Plan 2003, referenced in the Decision Notice, have now been superseded by policies D4 and H4 of the LPDMP 2023. All other policies mentioned within the decision notice remain.
5. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous iteration. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments. References hereafter in the decision to the Framework are to the December 2023 version.

Main Issues

- i. Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies
- ii. The effect of the proposal on the character and appearance of the area, including the appeal property.

Reasons

Whether inappropriate development

6. Paragraph 154 of the National Planning Policy Framework (the Framework) states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions.
7. One exception in the Framework 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.
8. Policy P2 of the Guildford borough Local Plan: strategy and sites 2015-2034 (Adopted 25th April 2019) (the 'Local Plan') largely echoes this statement and defers to the Framework with regard to exceptions albeit with some divergence with regards the definition of 'original dwelling'.
9. Policy P2 states that the "original building" shall mean: "i. the building as it existed on 1 July 1948; or ii. if no building existed on 1 July 1948, then the first building as it was originally built after this date". Whereas the Framework simply refers to "a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally."
10. The appellant has submitted considerable additional evidence with regards the planning history of the site and the adjacent property, 'Foxwell'.

11. The appellant identifies a property on the appeal site as Foxwell on a plan dated June 1975 hereafter referred to as 'old Foxwell'. Furthermore, reference is made to planning permission granted on July 1975 for "erection of a detached chalet bungalow with integral garage to replace existing timber bungalow", the appellant suggests this new property is located the north of the appeal site, now referred to as Foxwell. The appellant also refers to the subdivision of the plot and the erection of the present building on the site, referred to as Foxwell Cottage, in 2003-4.
12. The suggestion being that the current Foxwell, to the north of the appeal site, was a replacement dwelling for 'old Foxwell' and therefore that the 2003-4 Foxwell Cottage is a new 'original property' for the purposes of assessing whether or not the proposed extensions result in disproportionate additions over-and-above the size of the original building.
13. However, the Officer's report refers to an Application for Certificate of Lawfulness for the retention of a bungalow occupied as a separate residential dwelling from Foxwell, approved in 2001, suggesting the 'old Foxwell' was not demolished in 1975 and as such was not replaced by the new Foxwell on the now subdivided plot. In other words, whilst the description of the proposal in 1975 referred to a replacement for a timber bungalow, what appears to have happened is that the new dwelling was constructed but the timber bungalow was not demolished. Planning permission was subsequently granted in 2003 for the replacement of that bungalow with the present dwelling.
14. Indeed, it appears based on evidence submitted by the appellant, including the 1975 Land Registry plan, that Foxwell Cottage was erected very close to and at least partially on the footprint of the 'old Foxwell' dwelling.
15. The Framework definition refers to "a" building as "it" existed on 1 July 1948 or, if constructed after 1 July 1948, as "it" was originally built. The building in question, Foxwell Cottage, did not exist on 1 July 1948 and "it" was originally built in 2004. As such, it seems quite clear that the original building for the purposes of the Framework is Foxwell Cottage as was constructed at that time.
16. As noted by Judge Jarman KC, the definition within Policy P2 "expands somewhat on the definition given in the NPPF, in a way which in my judgment is not altogether clear".
17. Turning to Policy P2(a)(i) "the" building as "it" existed on 1 July 1948 would appear to be referring to a situation where "the" building in question – that which an application seeks to extend – stood on that date and "it" is still in situ. P2(a)(ii) refers to a situation where no building existed on 1 July 1948, in which case the original dwelling is taken to mean the first building as it was originally built after this date. The policy doesn't expressly address a situation where there was a building in existence on 1 July 1948 but that building was subsequently replaced with another building. In other words the second limb only deals with a situation where "no building existed in 1948" and the first limb deals with a situation where "the" building was there on the relevant date.
18. It is not clear, from the information before me, if any building existed on 1 July 1948. Even if there was a building on that date, the current proposal is not to extend "the" building that existed on that date. The proposal is to extend a different building, as erected in 2004. Thus, the definition in P2(a)(i) does not appear to fit well against that scenario. It is unclear at best.

19. If there was no building in existence on 1 July 1948 then the original building under P2(a)(ii) would clearly be the “first building” as it was originally built after this date. That could apply to “Old Foxwell” if it was constructed after 1 July 1948 but the evidence for that is unclear. No evidence of when the dwelling was constructed is before me.
20. In that sense, there is a lack of clarity within the definition of the original dwellinghouse within Policy P2 in respect of how it should be applied to the appeal proposal. Moreover, there is no explanation within the policy as to why it diverges from the definition within the Framework. There is no such uncertainty with regards the definition of ‘original dwelling’ as set out in the Framework. In the face of the lack of clarity within Policy P2 and how the definition should be applied to the appeal proposal, I shall assess the proposal against the definition within the Framework.
21. Therefore, with due regard to the planning history of the site, the particular wording of Policy P2 and the Framework it is my planning judgement that for the purposes of this appeal the ‘original dwelling’ is the current Foxwell Cottage, as originally built in 2004.
22. The term ‘disproportionate additions’ is neither defined in the Framework, nor is there a defined way of assessing and measuring proportionality set out within the development plan. It is held therefore that this is a matter for the decision maker to determine in the context of whether the extension would be disproportionate, albeit that with the reference to ‘size’ as set out in the Framework, this could reasonably refer to volume, height, external dimensions, footprint, floorspace and visual perception.
23. Nonetheless, the submitted plans show that the appeal scheme would create additional built development with extensions to both the dwelling and the garage.
24. While the Council has assessed the proposed alterations and extensions to the dwelling and garage separately, I consider that the garage is a normal domestic adjunct and lies in close proximity to the main dwelling. It can therefore be regarded as part of the dwelling and, therefore, an extension to the garage should be regarded as an extension to the house.
25. The appellant suggests an uplift in total floorspace as a result of the appeal scheme of 23-28.6%, based upon a baseline of the dwelling and garage as it exists on site now. Based on the Council’s own figures, the uplift from the existing building appears broadly consistent with the figures provided by the appellant.
26. Consequently, the uplift in floorspace, external dimensions and resulting increase in volume is modest both in itself and in comparison to the original building Foxwell Cottage.
27. Turning to the visual effect of the appeal scheme, the submitted plans show that the proposed annex would remain visually subservient to the main dwelling as a result of its lower height and overall size. I note that the dormer windows and raised ridge height of the garage would add to the size of the building but, the roof would nonetheless still remain lower in height than the ridge height of the dwelling. The additions to the dwelling to house the ground source heat pump and form a shelter are modest additions to the dwelling.

28. Therefore, even if I concluded otherwise with regard the original building, and were to accept the Council's approach in that respect, while the purely quantitative assessment of the appeal scheme would suggest that the additional build development is large, the visual perception of the works would nonetheless remain acceptable and would not be disproportionate in my view.
29. Therefore, for the reasons detailed above it is my planning judgement that the appeal scheme would not be a disproportionate addition. On this basis, in accordance with paragraph 154 of the Framework the proposal is not inappropriate development in the Green Belt and would not conflict with the overarching aims of policy P2 of the Local Plan. Whilst the definition of the original building within policy P2 is unclear, the broad thrust of the policy is to limit new development in line with exceptions set out within the Framework. Accordingly, my conclusions do not lead to any conflict with the aims of the development plan in that regard.

Character and appearance

30. I saw at the site visit that, in common with the appeal site, the local area generally consists of detached dwellings set in mature and verdant grounds. The appeal property and garage appear as being a modest chalet style with timber boarding and low eaves.
31. The appellant's submissions detail that the proposed extensions and alterations to the garage would use materials to match the existing external appearance of the building and the submitted plans show that the appeal scheme would harmonise well with the design of the dwelling, in particular the central pitched gable end.
32. The alterations proposed in the appeal scheme are of a similar design and fenestration to the dwelling and are show as being an attractive addition to the garage.
33. I acknowledge that as a result of the increased built form and insertion of dormer windows, the resultant annexe will undoubtedly appear larger than the existing garage. However, it would remain lower in height than the host dwelling despite the ridge height being raised and as such I do not find that these additions are excessive, and it would not unbalance the proportions and architectural coherence of the building.
34. The Council contend it would be read as a wholly separate dwelling. However in light of its proximity, subservient profile, matching materials, shared entrance and driveway, and architectural coherence with the host dwelling, it is my planning judgement that the resulting annex would not appear as a new separate dwelling and is not unduly large.
35. I saw at the site visit that the appeal property is set back from the road and well screened by the existing solid gate and dense vegetation along the boundary of the property. As such only fleeting glimpses of the buildings are possible from Hunts Hill Road
36. As such, I find that the appeal scheme would not harm the character and appearance of the area and would not conflict with Policy D1 of the Local Plan, Policies H4 and D4 of the LPDMP, the Framework and the 'Residential Extensions and Alterations' Supplementary Planning Document (SPD) which

together seek to ensure proposals are well designed and contribute positively to the character and appearance of the surrounding area in which they lie.

Conditions

37. I have considered the conditions suggested by the council against the advice set out in the Framework and the National Planning Guidance. I have imposed the standard conditions relating to the commencement of development and specifying the relevant plans in order to provide clarity and certainty. I have also imposed a condition requiring the materials used in the construction of the appeal scheme to match the existing in order to protect the character appearance off the appeal dwelling and the surrounding area.

Conclusion

38. For the reasons given above the appeal should be allowed.

Mr M Brooker

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings no. 01, 02, 03 REV A, 04, 05, 06, 07 REV C, 08 REV B, 09, 10 REV A, 12, 20 REV A, 21 REV A, 22 REV A, 23 REV A, 30 & 40.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

End of schedule