



Appeal Decision

Site visit made on 23 May 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2024

Appeal Ref: APP/Z3635/D/23/3332038

Little Stoatswold, 43 Lower Hampton Road, Sunbury-on-Thames, Surrey TW16 5PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Powell against the decision of Spelthorne Borough Council.
 - The application Ref is 23/00546/HOU.
 - The development proposed is described as 'Retrospective planning for a single storey wrap around extension and cantilevered deck extension'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The main parties refer to emerging Local Plan 2022- 2037 which has been travelling through the examination process. The Council accept that its policies carry limited weight in the decision-making process and have not relied upon them in determining the application. I have determined the appeal having regard to the adopted development plan at this time.

Main Issues

3. The main issues are:
 - Whether the 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;
 - Effects on the openness of the Green Belt;
 - Effects on flooding;
 - 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

4. The Framework, at paragraph 142 identifies that 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. The Framework further establishes that the construction of new

buildings in the Green Belt should be regarded as inappropriate development, but lists exceptions in paragraph 154. 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.

5. Policy GB1 of the Spelthorne LP¹ states that development in the Green Belt will not be permitted which would conflict with the purposes of the Green Belt and maintaining its openness. It similarly lists types of development which are appropriate to the Green Belt which include limited extension, alteration or replacement of an existing dwelling.
6. Planning permission was granted for a replacement dwelling on the site in December 2019². The Council assert that the replacement house had a gross internal area of 51sqm and that the extension that is the subject of this appeal adds a further 32sqm. Figures to the contrary have not been provided by the appellant and the extension has entailed a significant increase in the size of the property. The extension does not therefore conform to the exceptions to inappropriate development set out in the Framework and would conflict with Policy GB1 as it is not a limited extension of the existing dwelling. The development is therefore inappropriate by definition. While I note the age of Policy GB1, its provisions are compliant with the Framework insofar as the consideration of this appeal is concerned.

Openness

7. The courts have established that the openness of the Green Belt has a spatial aspect as well as a visual aspect³. Therefore the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. A number of factors are capable of being relevant in its assessment. Policy EN2 of the Spelthorne CS⁴ relates specifically to extensions in the Green Belt including the Plotland Areas and its supporting text states that its aims include to prevent an increase in the impact of existing buildings on the openness of the Green Belt. It refers specifically to the single storey low profile of the structures, which contributes positively to the openness of the Green Belt along this bank of the river.
8. Visibility of the extension from the road is very limited due to its position at the back of the property and high boundary treatment at the front of the site. Visibility is possible from the river itself, and the extension conflicts with the provisions of Policy EN2 due to its projection and proximity to the eastern boundary. However, the properties in this group vary in their scale and have varying projections to the rear. The gaps between the buildings are, in some cases, very limited, and do not contribute strongly to the sense of openness. It is also not apparent, based on the evidence with this appeal, how far the Plotland Area extends and what its distinctive characteristics are. For these reasons taken together, while there is conflict with Policy EN2, this conflict attracts little weight.
9. In any event, while the visual effects of the development on openness are very limited, the extension has decreased the spatial aspect of the site's openness

¹ The Spelthorne Borough Local Plan 2001 'Saved' Policies and Proposals, as at 28 September 2007

² 18/01761/FUL

³ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

⁴ The Core Strategy and Policies Development Plan Document 2009

through comprising new built form at the back of the building. This harm is at the lower end of the scale.

Flooding

10. The appeal site is within flood risk zone 3 with a high probability of flooding. The area of the extension and decking is largely situated in flood zone 3b, which Planning Practice Guidance defines as the functional floodplain, being land where water has to flow or be stored in times of flood. Policy LO1 of the CS relates to flooding and, among other things, requires development to maintain the effectiveness of the more frequently flooded area (zone 3b) of the floodplain to both store water and allow the movement of fast flowing water by not permitting any additional development including extensions. This is reiterated and expanded upon in the Council's Flooding Supplementary Planning Document (SPD) 2012.
11. The works have included measures intended to allow water to pass beneath. The extension has an open slatted gate beneath one side and pipes among the brickwork which would allow water to pass through to the areas beneath the extension. The decking area includes some gaps among the cladding, which would similarly allow the passage of water. However, there is little information before me regarding the effectiveness of those measures and, given the size of the gaps and pipes, it is likely that the development would cause some degree of impedance to floodwater flows, particularly if those gaps were to become obstructed during periods of flooding. As such it cannot be established that the development would not reduce the effectiveness of the flood plain and allow the movement of fast flowing water.
12. The appellant's flood risk assessment appears to relate to an outbuilding and is dated 2019 and does not provide reassurances of the effects of the extension and decking. The appellant has detailed the materials used in the construction of the extension, and I have no reason to believe that the works are not adequately flood resistant and would be safe for its users. However, this would not mitigate for, or reduce, the potential effects on the effectiveness of the floodplain.
13. In the absence of substantive evidence to the contrary, the development could cause harm in terms of flood risk. The proposal would conflict with Policy LO1 of the CS and the Flooding SPD 2012, as well as the Framework insofar as it requires that development does not increase flood risk elsewhere.

Other Considerations

14. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. It also makes clear that substantial weight should be given to any harm to the Green Belt.
15. Other properties within this group have been extended and altered. However there is not sufficient evidence here to suggest that their circumstances are the same as this appeal. The approved replacement dwelling on the site may have been for a higher building, however details of that permission are not before

me and it is not apparent if this remains a legitimate fall back position for the appellant. The absence of harm to the character and appearance of the area and compliance with building regulations do also not weigh in favour of the development.

16. While there would be benefits arising from the size of the accommodation, this would not clearly outweigh the harm identified to the Green Belt and to the risk of flooding, which attract substantial weight. As a consequence, the very special circumstances necessary to justify the development do not exist.

Other Matters

17. The Council's third reason for refusal refers to the traditional Plotland character. However, in light of the supporting text to that policy I have considered these matters under the main issue of effects on openness. The Council accept that the design is appropriate to the host property and in views from the street, and I have no reason to reach a different view.

Conclusion

18. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore the appeal is dismissed.

C Shearing

INSPECTOR