



Appeal Decision

Site visit made on 27 June 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 JULY 2024

Appeal Ref: APP/K3605/D/24/3339110

Nursery Cottage, Burhill, Hersham, Walton-on-Thames, Surrey KT12 4BE

- 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 R Davis against the decision of Elmbridge Borough Council.
 - The application ref is 2023/2996.
 - The development is retrospective application for front porch, alteration to fenestration and chimney stacks.
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Decision

1. The appeal is allowed and planning permission is granted for retrospective application for front porch, alteration to fenestration and chimney stacks at Nursery Cottage, Burhill, Hersham, Walton-on-Thames, Surrey KT12 4BE, in accordance with the terms of the application ref 2023/2996 and the plans submitted with it.

Preliminary Matters

2. I have used the Council's description of development which is more precise than the planning application form; I note the Appellant also uses this description on the appeal form.
3. The front porch has already been erected and the alterations to fenestration and chimney stacks completed and therefore I was able to see these at my visit. Other works have been carried out at the property which are not shown on the submitted plans. However, I have restricted my considerations to the proposals before me.

Main Issue

4. The main issue is whether or not the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework (2023) ("the Framework") and any relevant development plan policies.

Reasons

5. The site is a detached dwelling located within the Green Belt. It is a replacement dwelling which was constructed following a relatively recent planning permission¹. The submitted evidence indicates the dwelling was constructed in 2020.

¹ Council Ref: 2017/3556.

6. Policy DM18 of the Elmbridge Development Management Plan (2015) (DMP) outlines that extensions and alterations to buildings will be permitted provided that they do not result in disproportionate additions over and above the size of the original building. Support will be given to proposals that do not have a materially greater impact on the openness of the Green Belt, and which meet criteria including that proposals are well designed, do not materially increase the overall height of the building and do not result in an increase beyond 25% in volume and 25% in footprint. The policy's supporting text states that the 'original building' will be determined based on its size as existing on 1 July 1948 or as first built if later than this date.
7. The fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. Paragraph 152 of the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
8. Paragraph 154 of the Framework sets out that the construction of new buildings in the Green Belt is inappropriate unless one of the stated exceptions apply. This includes, at 154 c), 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. The Glossary to the Framework defines 'original building' as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. Therefore, the definition of an 'original building' within the DMP is, in essence, identical to that within the Framework. Consequently, Policy DM18 of the DMP is consistent with the Framework.
9. The Council state that the extensions to the existing dwelling are considered to be disproportionate compared to the previous dwelling at the appeal site. My attention has been drawn to caselaw² which relates to the definition of 'original building' for the purposes of assessing extensions to dwellings within the Green Belt. The caselaw relates to a very specific definition of 'original building' which is defined in the Guildford Local Plan, which is a development plan document for a neighbouring borough.
10. However, the definition of an 'original building' within the Guildford Local Plan differs from the definition found both within the Framework and Policy DM18 of the DMP. Therefore, the caselaw does not affect the wider Framework definition of 'original building', and for the purposes of this appeal I have followed the definition from the Framework and supporting text to Policy DM18.
11. In relation to buildings constructed after 1 July 1948, the definition of 'original building' in the Framework does not expressly deal with replacement buildings. However, it can be taken that the 'original building' in such a case would be the replacement dwelling itself, as originally built, and that this forms the baseline against which subsequent extensions and alterations should be measured. Any replacement dwelling would presumably have satisfied applicable Green Belt policy at that time.
12. Therefore, with due regard to the planning history of the site, the particular wording of Policy DM18 and the Framework, it is my planning judgement that

² Guildford BC v SSLUHC & Mr C Weeks [2023] EWHC 575 (Admin)

for the purposes of this appeal the 'original building' is the current Nursery Cottage, as originally built in 2020.

13. The appellant indicates, and it is not disputed by the Council, that so far as the extension relates to the current Nursery Cottage, the increase in footprint and volume would equate to 9.8% and 5.2% respectively. Consequently, the uplift in floorspace and increase in volume is modest both in itself and in comparison, to the 'original building'.
14. The single-storey porch has been designed to be subservient to the original dwelling and is well set-down from the main roof. Overall, I am satisfied, as a matter of judgement, that the addition to the original building is proportionate.
15. The proposal therefore meets the terms of the most relevant exception to inappropriate development within the Green Belt. Accordingly, I find no conflict with Policy DM18 of the DMP nor the relevant parts of the Framework which, amongst other things, seek to prevent inappropriate development from occurring in the Green Belt.
16. As the proposal is not inappropriate development, there is no need to consider the effect of the proposal on the openness of the Green Belt, nor is there any requirement to demonstrate very special circumstances to justify the development.

Conditions

17. I have had regard to the Council's suggested conditions in the event that the appeal was allowed. However, given the retrospective nature of the development, and my findings above, I find that no conditions are necessary in this instance.

Conclusion

18. For the above reasons, and having had regard to all other matters raised, I conclude that the development accords with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

INSPECTOR