

Appeal Decision

Site visit made on 19 August 2024

by Graham Stallwood BA(Hons) DipTP MBA FRTPI MCMi FRSA

Appointed by the Secretary of State

Decision date: 2 September 2024

Appeal Ref: APP/K3605/W/24/3337247

Imber Court Cottage, Orchard Lane, East Molesey, Surrey, KT8 0BN

- 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 Steven Alexander Lazarus against the decision of Elmbridge Borough Council.
 - The application reference is 2023/0836.
 - The development proposed is a detached two-storey house and conversion of existing detached two-storey house to garage and ancillary space with balcony terrace following partial demolition of existing house and demolition of outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for a detached two-storey house and conversion of existing detached two-storey house to garage and ancillary space with balcony terrace following partial demolition of existing house and demolition of outbuildings at Imber Court Cottage, East Molesey, KT8 0BN in accordance with the terms of the application 2023/0836, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Except as required by condition 6, the development hereby permitted shall be carried out in accordance with drawing numbers 117/PL10/P3, 117/PL11/P3, 117/PL15/P5, 117/PL16/P5 and 117/PL18/P2.
 - 3) The outbuilding shall be occupied only in connection with, and ancillary to, the occupation of the dwelling hereby permitted. It shall not be separately let, sold, or otherwise occupied as a separate dwelling.
 - 4) No development including groundworks and demolition and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until all tree protection measures have been installed in the positions identified on the tree protection plan Sht-2 in the Barry Holdsworth Arboricultural Report dated 2 August 2022. Those measures shall be retained in place until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made.

- 5) The demolition identified on drawing number 117/PL15/P5 shall take place in full and the resulting material removed from the site prior to the first occupation of the new dwelling.
- 6) The flood mitigation measures in paragraphs 6.2 and 6.3 of the Innervision Design flood risk assessment dated January 2023 shall be integrated into the detailed design of the main dwelling and shall be installed in full prior to substantial completion of the main dwelling.

Main Issue

2. The main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.

Reasons

3. The appeal site is in the Green Belt. The existing dwelling is to the east of the site adjacent the river loop, with a public right of way passing immediately alongside the north of the dwelling. The right of way leads to the main river, the wider network, recreation facilities and open spaces, and was well used at the time of my visit. There is considerable mature planting both on the site boundaries and within the site.
4. The northern part of the appeal site contains the existing dwelling, a large area of hardstanding and permanent single storey buildings. These include a central building which has the appearance of at least two workshop/garage buildings joined together, large steel building frames which have been wrapped in sheeting, and smaller sheds. The southern part of the site beyond the drive looks and feels more like a tended domestic garden and includes a large greenhouse.
5. The National Planning Policy Framework (the Framework) identifies new buildings in the Green Belt as inappropriate development. It goes on to set out exceptions to this which include, at paragraph 154(g), the partial or complete redevelopment of previously developed land in specified circumstances. Policy DM17(c) of the Council's Development Management Plan (part of the adopted Local Plan) refers to "previously developed sites" instead of "previously developed land" and lists various factors that should be considered where the development of such sites is proposed.
6. The land is occupied by permanent buildings and is not covered by one of the exclusions in the definition of previously developed land in the Framework. Consequently, the Council considers the site to be previously developed land and I see no reason to disagree with that conclusion. For the redevelopment proposal not to be inappropriate development in the Green Belt it must therefore not have a greater impact on the openness of the Green Belt than the existing development.
7. The buildings to be removed as part of the redevelopment are dispersed across the northern part of the site. The height, position and form of the buildings mean the existing dwelling, the central workshop/garage and the two steel building frames nearest the central building have a greater impact on openness than others. The spatial consolidation of these buildings into one area would improve the openness of the Green Belt. From the north, and the

public right of way in particular, the partial demolition of the existing dwelling would increase the visual openness of the Green Belt from outside the site. Removing the steel building frames would also improve visual openness from outside the site to some degree, especially in the winter months when tree cover is reduced.

8. Balanced against that, the new dwelling would result in increased massing at first floor and roof level compared to the existing situation. This would reduce the openness of the Green Belt and would be most apparent from within the site and from the north, including properties beyond the river loop. Removing the hardstanding would have a neutral impact as the new dwelling would retain a hardstanding in a similar location. Considering impact on the openness of the Green Belt overall, the spatial consolidation of buildings to reduce dispersal combined with the visual improvements to openness from the demolition would offset the increases at higher levels. Overall, there would be no greater impact on the openness of the Green Belt than the existing development.
9. For these reasons the proposals would not be inappropriate development in the Green Belt. They meet the requirements of the exception at paragraph 154(g) of the Framework and would comply with the development plan, in particular Policy DM17(c) of the Elmbridge Development Management Plan 2015 regarding new buildings in the Green Belt.

Conditions

10. Conditions to link the development to specific plans and prevent use as more than one dwelling with ancillary accommodation are necessary to ensure it is clear what is permitted. A condition to protect retained trees during site preparation, demolition and construction is necessary as they are collectively important to the appearance of the site and the character of the wider area.
11. The application is accompanied by a report relating to flood mitigation. A condition is necessary to secure associated mitigations and compliance with the Framework and Policy CS26 of the Elmbridge Core Strategy concerning flood risk.
12. A condition requiring the demolitions to take place has not been suggested by the Council, but this is necessary to ensure the existing buildings are not retained as well as the new dwelling being built, with the consequent impact on the openness of the Green Belt. As this is proposed in the application the appellant will not be prejudiced by me including it.
13. The Council has suggested other conditions which do not meet the necessity test for conditions in the Framework: External facing materials are detailed on the plans referred to in condition 1; additional landscaping and controlling the planting on the site beyond tree protection fencing are not necessary for permission to be granted; there is no net increase in dwellings such that requiring electric vehicle charging facilities might be justified; there is ample space for cycle and vehicle parking without needing conditions; the ecological report identifies the need for a European Protected Species Licence which, if granted, will include any appropriate mitigation measures; the ecological report suggests other steps to ensure any development proceeds in accordance with laws relating to wildlife; and removing

permitted development rights is not necessary to grant permission for development which is not inappropriate.

Conclusion

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

Graham Stallwood