



Appeal Decision

Site visit made on 10 July 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2024

Appeal Ref: APP/K3605/W/23/3331194

Waynelete Estate, More Lane, Esher, Surrey KT10 8AR

- 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 Eduardo Pontes against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/1256.
 - The development proposed is demolition of the existing detached two-storey dwelling house and associated single-storey residential outbuilding, and their replacement with a detached two-storey dwelling house with a basement, a detached single-storey garage/store with basement and swimming pool, an underground walkway link between the two buildings, together with associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of this appeal the "Proposed reforms to the NPPF and other changes to the planning system", the "National Planning Policy Framework: draft text for consultation" and the written ministerial statement entitled "Building the homes we need" have been published. Both main parties have had the opportunity to submit comments on the relevance of these documents to this case. I have taken these comments into consideration.

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 2023 (the Framework) and any relevant development plan policies.
 - The effect of the proposal on the openness of the Green Belt.
 - 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

4. The Framework sets out that the fundamental aim of 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. The

Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions in paragraphs 154 and 155 of the Framework. This is broadly echoed by Policy DM17 of the Development Management Plan 2015 (DMP).

5. Of relevance to this appeal, paragraph 154d) provides an exception for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy DM18 of the DMP generally follows this and states that such development should not result in an increase beyond 10% in volume and 10% in footprint, amongst other things.
6. Although there is dispute as to the percentage increase that should be considered, both main parties agree that the increase in the footprint would be below 10%, but the increase in volume would be above 10%. Consequently, the buildings would be materially larger than the ones that they replace.
7. It appears that the volume of the basement has not been included in these figures. However, even if it were, it would not alter the fact that the increase in volume would be above 10% and therefore the appeal scheme would be inappropriate development in any case.
8. Consequently, for the reasons described above, the appeal scheme is inappropriate development in the Green Belt both in the terms of the Framework and Policy DM18 of the DMP.

Openness

9. Openness has both spatial and visual dimensions. The proposed development results in a materially larger built form to this site and introduces development where there currently is none. As such there is harm to spatial openness.
10. Although vegetation would screen views from some properties and tree planting is proposed, the buildings would be visible from the houses to the south, particularly when trees are not in leaf. They may also be visible in longer distant views from on and across the river Mole. The main dwelling would provide screening to the garage in some views, albeit it would not provide screening to the sides and rear. The increased size development would be clearly perceived. As such, there would also be harm to visual openness.
11. The proposed basement would be wholly subterranean and would be served by limited lightwells. The majority would be beneath the footprint of the proposed buildings, although there would be two narrow passageways which are not. These are intended to provide emergency escape routes. Due to its layout and limited visible features, the basement proposed in this case would not result in harm to spatial or visual openness.
12. The removal of the outbuilding which is seen from the entrance on More Lane and likely the nearby houses, would improve the openness in the north eastern part of the site. However, this would be balanced against the loss of openness in the southern part of the estate which would be likely to be visible from properties to the south. As such, the effect of the re-siting of this mass would have a neutral effect on openness overall. Similarly, the relocation of the house would be further from the adjacent school but closer to other properties and it

would also be larger. Therefore, there would be no improvement to openness in this respect.

13. Consequently, for the reasons above, the proposed development is harmful to the openness of the Green Belt. Therefore, it is contrary to the Framework in this regard.

Other Considerations

14. The existing dwelling is above the mains sewer, and the proposed dwelling would be sited away from this. The proposed development would enable better access to the sewer if required, albeit there is no detailed evidence as to whether this would be frequent. As such, this would be a minor benefit.
15. Planning permission has been granted for part two/part single-storey side and front extensions, basement and new garage/storage building following demolition of existing storage barn at this site (LPA ref 2021/3530) (The fallback scheme). The permission is extant and given the similarities in terms of the accommodation that would be provided, if the appeal scheme were not permitted there is a real possibility that this scheme would be implemented. The fallback scheme would provide accommodation suitable for a long term residential use at this site.
16. The proposals cover the same amount of above ground volume in the same layout. However, the fallback scheme proposed extensions and alterations around the footprint of the existing building, which would be approximately 30m away from the proposed development in the appeal scheme and includes a smaller basement.
17. The main dwelling in the fallback scheme was relevant to paragraph 154c) of the Framework which relates to the extension or alteration of a building. It was found not to be inappropriate. The impact on openness is implicitly taken into account in this exception and therefore there was no requirement to assess the impact on the openness of the Green Belt. As such the fallback scheme is not harmful to the Green Belt in these regards.
18. With regard to water and energy efficiency, the fallback scheme would not comply with current energy efficiency standards throughout the building. Also, it would not have a basement under the garage. Therefore, the energy used in the fallback scheme may be higher. Additionally, The Surrey County Council Flood Risk Team have requested further information to ensure the development does not increase flood risk on or off site. However, there would be tree planting and biodiversity improvements associated with the proposed development. The details of these matters could be secured by condition, as such, the extent of any benefit in these regards are limited at this stage.
19. Even considering the limited improvements in water and energy efficiency and biodiversity in the appeal scheme compared with the fallback scheme, I attach great importance to the fact that the fallback scheme was not inappropriate in the Green Belt. Therefore, overall, the fallback scheme would be less harmful than the appeal scheme and consequently it does not justify the proposed development.
20. Waynflete Tower is a Grade I listed building. Its significance derives from its historic appearance and function as a gatehouse. I have visited the appeal site and I agree with the appellant's detailed heritage statement and the Council,

that there would be no harm to the setting of the listed building. Furthermore, there is no dispute with regard to the detailing of the development. Therefore, the lack of harm in these regards are neutral factors.

21. The proposed development would result in a larger, more modern dwelling on this site. However, it would not provide an additional housing unit. As such, any benefits in these regards are mainly private and would not weigh notably in favour of the appeal scheme.

Green Belt Balance

22. The Government attaches great importance to Green Belts. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt. I have found harm to the Green Belt by reason of the proposed development's inappropriateness which is also contrary to Policy DM17 of the DMP. There is also harm to the Green Belt due to the proposed development's effect on openness.
23. The proposed development would result in a minor benefit to the accessibility of the sewer and limited benefits to water and energy efficiency and biodiversity including tree planting. Whilst there is a realistic fallback scheme, this does not justify the development proposed for the reasons set out above. Therefore, the considerations advanced by the appellant, even when considered together, do not clearly outweigh the totality of the harm.
24. The very special circumstances necessary to justify the development therefore do not exist. Consequently, the proposed development conflicts with the Framework and Policy DM17 of the DMP, the aims of which are set out above.

Other Matters

25. While I have noted the appellant's concerns regarding the Council's handling of the planning application, that does not alter my assessment of the planning merits of the proposal.

Conclusion

26. The proposal conflicts with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR