



Appeal Decision

Site visit made on 13 August 2024

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Appeal Ref: APP/C3620/D/24/3342366

Hare House, Flanchford Road, Leigh, Surrey RH2 8NW

- 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 Mrs Caroline Lewis against the decision of Mole Valley District Council.
 - The application Ref is MO/2023/1735/PLAH.
 - The development proposed is erection of single storey extension.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mrs Caroline Lewis against Mole Valley District Council and this is the subject of a separate Decision.

Preliminary Matters

3. In February 2022, the Council issued a certificate of lawful proposed development under its reference: MO/2022/0352/PCL in respect of the erection of a single storey outbuilding to the side of the existing property. This has now been built but with the addition of a single storey link to the main house. As shown on the proposed elevations that were the subject of the Council's decision at application stage, now subject of this appeal, the single storey extension comprises the outbuilding as erected, together with the link building that connects it to the main house. I have determined the appeal on that basis.
4. The application forms indicate that the development had been started and completed before the date of the application. Although at the time of my site visit, I noted that the rear cladding to the link was still to be completed, both the outbuilding and the link element are in use. Therefore, the appeal is considered retrospectively.
5. There is no disagreement between the parties that as a result of the link extension, the outbuilding structure no longer adheres to the details of the certificate of lawful proposed development. Nonetheless, it appears that the dimensions of the outbuilding in situ comply with those of the certificate of lawfulness. No substantive evidence indicates otherwise. Therefore, in the event of the appeal being unsuccessful it is highly likely that an outbuilding of the dimensions currently in place would remain. Consequently, this comprises a valid fallback position to which I afford considerable weight.

6. The Council has indicated that an amended block plan to show the correct red boundary line was submitted at the application stage. My decision is based on the plans as determined by the Council. However, the Council's decision notice includes an informative to the effect that the site location plan was incorrect and it is not clear to me whether the amended plan has therefore resolved the land boundary issue. However, it has no bearing on my decision which is based on the planning merits of the scheme before me.
7. The main parties have agreed that the appeal development represents inappropriate development in the Green Belt. This is on the basis that, although the link building on its own represents a small increase in floorspace, in combination with other existing extensions to the original building and the effect of joining the outbuilding to the main house, it amounts to a disproportionate addition. I concur with that position.
8. Therefore, the proposal is contrary to the exception to inappropriate development at paragraph 154.c) of the National Planning Policy Framework (Framework). It is also contrary to Policy RUD7 of the Mole Valley Local Plan (October 2000) (Local Plan). This similarly sets out that development will be permitted where it would not result in a disproportionate addition over and above the size of the original dwelling.
9. The site benefits from a prior approval for a single storey rear extension granted in 2023 (Ref MO/2023/1019/PNHH) (the prior approval scheme). I have had regard to the various caselaw on fallback positions as referenced by the appellant. In that regard, evidence before me indicates that there is a greater than theoretical possibility of this prior approval scheme being implemented, and it attracts significant weight as a fallback position. I return to this in Other Considerations.

Main Issues

10. The main issues in this appeal are:

- the effect of the proposal on the openness of the Green Belt,
- the effect of the proposal on the character and appearance of the existing property and of the local area, and
- 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 development.

Reasons

Openness

11. The footprint of the link building is relatively small. Its building height is modest and lower than the built form to either side. However, it occupies the gap between the house and outbuilding. In doing so it results in continuous built form along the width of the house and the outbuilding. This would be appreciable from within the appeal site. I note that the certificate of lawful proposed development was issued for the outbuilding in isolation and therefore that element of the built form would likely remain without the link building. In addition, the nature of the activity generated by the appeal scheme is unlikely to be substantially different to the activity that would be likely to occur without

the appeal scheme in place. Nonetheless, for the reasons given, the effect of the link building having been added is a small reduction in openness. This adds to the harm arising from inappropriate development in the Green Belt.

Any Other Harm: Character and Appearance

12. The outbuilding is of modest height compared with the main house and constructed in brick with a tiled roof and therefore appears generally in keeping with the style of the main house.
13. The link structure is very modest in terms of its depth and width, as well as its height. Its design incorporates a large picture window to the front and to the rear. Although the design of the link element does not match the design of the existing house or the outbuilding, its scale and form enables it to serve its linking purpose in a deferential way, and to ensure that there remains a clear transition between the main house and the outbuilding.
14. Given its siting, the outbuilding can be seen from Flanchford Road, but this would be the same if it had been constructed as a separate building as permitted under MO/2022/0352/PCL.
15. Given its modest scale and siting between the outbuilding and the main house, views of the link extension are relatively restricted from the surrounding area. Even if it becomes more visible in winter months when leaf coverage on the hedge is lower, I am satisfied that its small scale and position adjacent to the main house would appear acceptable.
16. Therefore, I conclude that the appeal scheme does not harm the character and appearance of the existing dwelling or the surrounding area. There is no conflict with Policy CS14 of the Mole Valley Core Strategy (October 2009) (Core Strategy) and Policies RUD7, ENV22, ENV23 and ENV32 of the Local Plan as well as the Framework, and in particular Section 12, all of which, amongst other matters, seek a high quality of design which respects the local context.

Other Considerations

17. As already set out, the prior approval scheme represents a valid fallback position to which I afford considerable weight. Once account is taken of the partial demolition of the existing rear extension needed to facilitate this fallback, it would add approximately 81 sqm of floorspace to the property. Therefore, its footprint would be comparable in size to that of the outbuilding, but slightly smaller than that of the outbuilding and link building combined.
18. However, as reasoned above, it is reasonably likely that the existing outbuilding would remain even if the appeal is unsuccessful. On that basis, the prior approval scheme (circa 81sqm) would give rise to a notably larger increase in floorspace relative to that of the link building (circa 6.5sqm). On the evidence before me, it follows that the corresponding impact on Green Belt openness would be greater for the prior approval scheme relative to that of the appeal scheme, taking into account the likely retention of the outbuilding.
19. Nevertheless, it is not in dispute between the main parties that the prior approval scheme could be implemented in addition to the appeal scheme.
20. In that regard, the appellant has put forward a condition with the intention that it would prevent other extensions being carried out under permitted

development rights, and also prevent implementation of the prior approval scheme. Conditions can be used to withhold future use of permitted development rights. However, in respect of preventing implementation of the prior approval scheme, sections 97 and 100 of the Town and Country Planning Act 1990 (as amended) establish that planning permission can only be revoked by the local planning authority or secretary of state via the process set out in the Act. Whilst a prior approval in itself is not a grant of planning permission, it is an approval of a pre-commencement condition imposed on a planning permission for enlargement of a house as granted by the GPDO¹. As such, a condition requiring not to implement the prior approval scheme would essentially be a requirement not to implement the planning permission itself. In light of sections 97 and 100, such a condition cannot be imposed.

21. Whilst a planning obligation undertaking not to implement the prior approval scheme would be an alternative mechanism to ensure that scheme did not come forward, no such mechanism is before me for consideration. Moreover, a commitment from the appellant in their appeal submission that the prior approval scheme would not be implemented in the event of the appeal being successful, does not provide sufficient certainty. Accordingly, the potential to prevent delivery of the prior approval scheme and any associated harm to openness of the Green Belt from that scheme, does not help justify the appeal scheme before me.
22. The appellant submits that the Council's approach to this appeal is inconsistent to their approach to a proposed Green Belt rear extension at a house known as Cleavers (Ref MO/2023/0535PLAH). However, in that instance it appears that a fallback position comprising a larger rear extension could not be implemented in addition to the proposed rear extension. Therefore, that fallback scheme did help to justify the granting of a smaller rear extension. Whereas in this case, the prior approval scheme could be implemented in addition to the appeal scheme. As such that Cleavers permission is not sufficiently comparable to alter my reasoning.

Planning Balance and Overall Conclusion

23. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
24. The other considerations put forward do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness and the additional harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the appeal scheme is contrary to the spatial strategy set out in Policy CS1 of the Core Strategy. Whilst that refers to national policy on Green Belts that has been superseded by the Framework, there remain similarities between the superseded national Green Belt policy and the approach to Green Belt development as set out in the Framework.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

25. For the reasons given above, the proposal would conflict with the development plan and the Framework, when taken as a whole. Having considered all other matters raised, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR