



Appeal Decision

Site visit made on 25 September 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 DECEMBER 2024

Appeal Ref: APP/P3040/W/24/3344139

Fairmont House, Flawforth Lane, Ruddington, Nottinghamshire NG11 6NG

- 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 and Mrs L Osborne against the decision of Rushcliffe Borough Council.
- The application reference is 23/02179/FUL.
- The development proposed is erection of two storey side and rear and single storey side extension with roof balcony, raised rear patio/decking, application of render at ground level to south and west elevations, application of cladding to all exterior elevations.

Decision

1. The appeal is allowed and planning permission is granted for erection of two storey side and rear and single storey side extension with roof balcony, raised rear patio/decking, application of render at ground level to south and west elevations, application of cladding to all exterior elevations, at Fairmont House, Flawforth Lane, Ruddington, Nottinghamshire NG11 6NG in accordance with the terms of the application, Ref 23/02179/FUL, subject to the following conditions
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing numbers: Site Plan 1:1250; LA-22CL/002 (Proposed Plans and Elevation); LA-22CL/004 (Proposed Plans).
 - 3) The materials used in the construction of the exterior of the development hereby permitted must be similar in appearance to the materials used on the exterior of the existing dwelling.

Main Issues

2. The appeal site lies within an area of Green Belt. Therefore, the main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the provisions of the National Planning Policy Framework (the Framework);
 - The effect on the openness of the Green Belt and the purposes of including land within it;
 - If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

3. The Government attaches great importance to Green Belts. Paragraph 154 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but it lists certain forms of development which are not regarded as inappropriate, including 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. Policy 21 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (October 2019) (the LPP2) sets out that applications for development on land within the Green Belt will be determined in accordance with the Framework.
4. The existing dwelling on the land replaced a previous dwelling under planning permission granted in 2016¹. It is indicated that the dwelling was constructed around 2020. The previous building was originally a single storey outbuilding associated with Hillcrest, the adjoining dwelling to the south, before being converted and then extended to a two storey dwelling. The Council states that the original building had a volume of some 749.1m³ and the existing dwelling measures approximately 1243.68m³. The evidence before me does not confirm if these are the same measurements considered when permission was granted in 2016, though the references to the previous building being extended suggests they were not. Nevertheless, it is indicated that the Council did not regard the proposed dwelling as materially larger than the building it replaced when it made its assessment.
5. The dispute between the main parties relates to the interpretation of 'original building' under exception (c) of Paragraph 154. I have had regard to the legal opinions submitted by the appellant, and the commentaries of both parties on the relevance of the *Guildford*² judgement.
6. 'Original building' is defined in the glossary to the Framework as '*a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.*' The judgment in *Guildford* related to a development plan policy which contained a separate definition of 'original building' and the Inspector's application of that policy. In the present case, the relevant policy, Policy 21, contains no further definition of 'original building,' nor has any supporting text or other guidance been advanced in evidence containing a different definition. Therefore, given that Policy 21 directs proposals to be assessed in accordance with the Framework, it falls to consider the proposal against the test at Paragraph 154(c) and the Framework glossary definition of 'original building.'
7. Paragraph 154(c) relates to the extension or alteration of *a building*. In simple terms, an extension is an addition to a building which exists. Otherwise it would be a standalone structure or a replacement building, to which other parts of Paragraph 154 may instead be applicable. Having regard to the Framework definition, the existing building on the appeal site was constructed after 1948 and is in its original form.
8. The difference between this case and that in the *Guildford* judgment is that there is no additional definition enshrined in a local policy to support

¹ Council Ref 16/00402/FUL

² *Guildford Borough Council v Secretary of State for Levelling Up Housing and Communities* [2023] EWHC 575 (Admin)

Rushcliffe's view that the baseline for measurement should be the first building on the land, even if that building no longer exists.

9. The Council's position, in effect, seeks to assess the existing building and the proposed extension as a single replacement for a previous building on the site. However, that is not what is proposed and absent a definition which supports this approach, it is my judgment that the relevant assessment to be made is whether the proposed extension is a disproportionate addition over and above the size of the *existing* building as it was originally built.
10. The existing building is stated to have a volume of some 1243.68m³. The proposed extension was assessed by the Council to have a volume of 547.06m³, an increase of just under 44%. A further dispute has arisen over the volume of a proposed external patio and swimming pool, which would partially rise above the ground level due to the slope towards the garden. The appellant argues this should be considered separately as an engineering operation as neither the patio or pool would constitute a building. However, the patio/pool area is presented as part and parcel of the overall scheme and I have considered it cumulatively with the extension. With the added volume of the patio above ground level, 15.2m³, the proposal would result in an overall increase of 45.21% over the original building. This would fall below the Council's informal threshold of 50% as a measure of whether an extension is proportionate in size.
11. Size is not solely related to volume, but can encompass other metrics and visual comparison. The proposed extension would not widen the existing dwelling, but it would infill the recessed sections of the first floor to the northern side, with a single storey front extension from the north-eastern corner to create an L-shaped footprint. This lower height to the majority of the front extension would create a secondary scale compared to the existing massing and would not appear excessive in overall size, nor would it render its original form illegible.
12. The Council raises further concern at the area of the patio/pool area. Whilst some of this would extend above ground, it would largely be at ground level with little visible volume that would be perceived as additional massing to the main building. Moreover, given the spacious nature of the overall site, the resulting dwelling, inclusive of the patio area, would not appear excessive in scale for its plot or in comparison with its neighbours.
13. I note concerns from interested parties that were the proposal approved, the enlarged building would become the baseline for any further extension. However, where it is the same building proposed to be further extended, any assessment under Paragraph 154(c) would still be made against the *original* building, with the proposed extension assessed alongside previous extensions, including those the subject of this appeal should they be constructed, to determine whether they are cumulatively disproportionate. In this case, there are no prior extensions to take into account.
14. For these reasons, I conclude that the proposed extension would not result in disproportionate additions over and above the size of the original building. Therefore, I find that the proposal would not be inappropriate development in the Green Belt and would not conflict with Policy 21 of the LPP2 or the provisions of the Framework.

15. With respect to openness and the purposes of the Green Belt, given my findings that the proposal would not be inappropriate development in the Green Belt, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it.
16. As the proposal does not amount to inappropriate development, there is no requirement to assess if there are other considerations that amount to very special circumstances needed to justify the development.

Other Matters

17. The Council did not refuse permission in respect of the effect of the proposal on the character and appearance of the area. The extension would continue the contemporary design of the existing dwelling, and would sit to the interior of the site, which is in a secluded, backland position subject to limited views from neighbouring properties. Consequently, the proposal would have little visual impact on the wider surroundings and the character and appearance of the area would be preserved.
18. Similarly, no objection has been raised in respect of neighbours' living conditions. There would be a modest increase in massing to the northern side of the dwelling where a first floor infill section is proposed. The neighbouring bungalow runs close to the shared boundary with limited views towards the site due to neighbouring windows being close to the fence screened by the neighbours' own trees. As such, this additional massing, though at a higher level, would not appear conspicuous in views from the neighbouring dwelling or result in material loss of light or increased sense of enclosure. No windows are proposed to this elevation, while the proposed first floor balcony would be located to the interior of the site away from neighbouring dwellings. No harmful loss of privacy would therefore result.

Conclusion

19. I have found above that the proposal would not be inappropriate development in the Green Belt, nor would there be material harm in any other respect. Consequently, there is no conflict with the development plan or the Framework and so the appeal should succeed.
20. A condition requiring development to be carried out in accordance with the approved plans is necessary, to provide certainty. A condition requiring materials to match those used on the existing dwelling is also needed in the interests of the character and appearance of the host dwelling and the surrounding area.
21. The appeal is therefore allowed.

K Savage

INSPECTOR