



Appeal Decision

Site visit made on 7 January 2025

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Appeal Ref: APP/Z3635/W/24/3346624

Herne, The Creek, Sunbury-on-Thames TW16 6BY

- 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 Tim Renton against the decision of Spelthorne Borough Council.
 - The application Ref is 24/00078/HOU.
 - The development is to retain a dormer on the south face of the pitched roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst I have taken into account the information provided, the description of development on the application form sets out more information than requires to be recorded. I have therefore described the development as shown on the header above. I have also noted that the appeal is in the name of Ms Zina Khallash, but I have used the name under which the application was made.
3. The application forms confirm that the development had been undertaken and completed prior to the submission of the application. I shall therefore treat the application as one made under Section 73A of the Town and Country Planning Act 1990 for retrospective planning permission for development as originally carried out, namely the erection of a dormer.
4. I understand that permitted development rights for the property were removed when the Council granted permission for the refurbishment and alterations of the existing dwelling under its Ref: 14/00908/FUL
5. There are references to enforcement action being undertaken by the Council in respect of the dormer, but my consideration is solely in relation to the appeal following the refusal of planning permission for its retention, as set out above.
6. The Appellant has also referenced an approach to the Council in order to agree a compensatory approach to the application whereby a less beneficial element of the existing accommodation be surrendered. However, no further information has been provided and my assessment must necessarily be based on the development before me.
7. Both the Council and the Appellant has drawn my attention to the progress of the draft Spelthorne Local Plan but are in agreement that at this point in time

limited weight can be given to the draft policies. No policies from the draft Plan are referenced on the decision notice. From the information before me, I have no reason to take a different view and shall not refer to the draft Plan further.

8. The National Planning Policy Framework (Framework) was revised in December 2024. I do not consider that there are any material changes in the Framework, pertinent to this appeal proposal. It is not therefore necessary to seek the views of the Appellant or the Council on the revised Framework.

Main Issues

9. The main issues in this appeal are:

- Whether the development is inappropriate development within the Green Belt and its effect on openness,
- The effect of the development on the character and appearance of the local area, with particular regard to its siting within a Plotlands area,
- Any other harm, and
- Whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

Reasons

Whether inappropriate development

10. The appeal property is a modest dwelling with accommodation at first floor in the roof space on the western side of The Creek. It is situated within the Green Belt and within the 1 in 20 year 'functional' flood plain and also within a Plotlands area.
11. Paragraph 154 of the Framework sets out that the construction of new buildings in the Green Belt is inappropriate except for a limited number of exceptions including the extension or alteration of a building providing that it does not result in disproportionate additions over and above the size of the original building. The term disproportionate is not further defined.
12. The Council has referred to both Policy GB1 of its 'Saved' Policies from its Local Plan 2001 (as at September 2007) (Local Plan) and Policy EN2 from its Core Strategy 2009 (Core Strategy) both of which address the extension of dwellings in the Green Belt. Whilst I have noted the date of both Plans and that the wording does not precisely follow the wording in the Framework, the development plan policies broadly follow the relevant criterion of the Framework as set out above. The policies also do not address in any further detail the scale of development that might be considered not to be disproportionate to the original building.
13. I have no detailed information before me from either the Council or the Appellant to consider the change in the size of the property with the dormer in place, from its original size, which is the relevant test under the Framework and development plan policy. The Council has provided a plan as submitted with an earlier application which was refused under the Council's Ref: 13/01416/FUL, showing the size of the original dwelling at that time. It has referred to the permission which was granted in 2014 under its Ref:

14/00908/FUL for refurbishment and alterations to the existing building which I understand included for the raising of the roof to create living space at first floor level and to a subsequent permission in 2016 for some further works to the property. The Council has also referred, in addition to the dormer the subject of this appeal, to a side extension and rear conservatory which have been added without planning permission.

14. The Appellant has contended that the roof as built pursuant to the 2014 permission was lower than approved and therefore the additional volume to the building is not as great as approved. Whilst I have no reason to question this statement, there is no evidence before me to allow a comparison to be made between what was approved and what was built to assess the effect on increase in scale and massing. No other information is provided in terms of other changes and additions to the building and the Appellant has not commented on the conservatory and side extension referenced by the Council although these are shown on the plans submitted by the Appellant and are not present on the plans submitted by the Council of the building as it existed in 2013.
15. The Appellant has undertaken calculations to consider the dormer as a proportion of the existing building, as it stands now whereas the Framework and the development plan policies are clear that the assessment is to compare with the original building. Although individual developments and proposals may be very modest, this approach seeks to safeguard against cumulative increases which when taken altogether create an increase which is disproportionate to the size of the original dwelling.
16. The dormer taken in isolation is modest and does not add to the footprint of the building although it does add to the massing of the building at roof level. However, and in so far as I have been able to assess from the limited information before me, when the dormer is added to the other extensions and alterations which have been undertaken at the property, whether or not planning permission has been granted, there has been a significant change in the size, floorspace and massing of the building compared with the original dwelling. This is the assessment I am required to undertake to accord with both development plan policies as well as the Framework.
17. Taking all these factors into account, and notwithstanding the lack of detailed information before me, having regard to Policy GB1 of the Local Plan and Policy EN2 of the Core Strategy together with the Framework, it is my view that the dormer extension, together with the earlier extensions and alterations already undertaken, is a disproportionate addition to the original house and is therefore inappropriate development.
18. Although it does not increase the footprint of the building, the dormer does add to the massing of the building at the roof level, albeit in a small way. There is therefore also a minor impact on the openness of the Green Belt, particularly in visual terms, through the introduction of new built form at roof level.

Character and appearance

19. The appeal property is within a designated Plotlands area. These areas are described as comprising modest dwellings which were originally weekend or holiday homes but are now occupied on a permanent basis, mainly along the River Thames and within the Green Belt. The Council seeks to retain the

character of these areas as set out in a criteria based approach to their replacement and extension under the second part of Policy EN2 of the Core Strategy. The criteria include to retain the small scale of the dwellings and the spacing between dwellings and as well as the single storey profile of the buildings.

20. The appeal property remains one of the more modest of the range of dwellings along The Creek and from my site visit, there are several examples where properties have dormers and / or rooflights, indicating accommodation at first floor level. The dormer on the appeal property is modest in dimensions and set back from the street on the side roof plane, towards the rear of the dwelling. It does not appear visually intrusive in the varied street scene. Accordingly, and as a result of my site visit and all the information before me, I am satisfied that the addition of the side dormer accords with criteria d) and e) as well as g) and h) of Policy EN2. The property, even prior to the addition of the dormer did not comply with criterion f) in that it contained accommodation at first floor level and the addition of the dormer does not change this position.
21. I am therefore satisfied that the dormer does not detract from the character and appearance of the local area, including its siting within a Plotlands area. There is no conflict with Policy EN2 in so far as it relates to developments within the Plotlands area as well as the Framework and in particular Section 12 which seeks a high quality of design which respects the local context.
22. The Appellant has contended that the Plotland related policies are now generally out of date, but the Framework is clear, in Section 12, that developments should respect the local context and distinctiveness, which is also reflected in the second part of Policy EN2 of the Core Strategy.

Any Other Harm

23. I have noted the objection from the neighbouring residents regarding harm to their living conditions. However, given the scale of the dormer within the roof slope and the gap to the neighbouring property, I do not consider that there is any material harm to outlook for the neighbours. There are no windows in the dormer and therefore there is no harm to the living conditions of the neighbours in respect of overlooking and loss of privacy. Furthermore, and were no other matters of concern and planning permission were to be granted, a condition could be imposed to prevent the subsequent installation of windows within the dormer. The Council also raised no concern in this regard. There is no additional harm in this regard.
24. I have noted that the property lies within the Flood Risk Zone 3b (1 in 20 year event). However, given the siting of the dormer on the roof plane, I am satisfied that there are no adverse flood related impacts arising. The Council also raised no concerns on this issue. There is no additional harm in this regard.

Other Considerations

25. I have taken into account, including from all the correspondence, photographs and personal information provided to me and have sympathy with the Appellant's personal reasons for seeking the additional headroom at first floor level, given the health condition from which she suffers,. However, it has not

been explained to me why this would be the only way to achieve wardrobe / dressing space within the dwelling. I can therefore only give this matter very limited weight in support of the development.

26. The development does not seek to take land out of the Green Belt but the development plan policies and the Framework paragraphs referenced in this appeal decision refer to the approach to determining development within the Green Belt. This does not add any weight in support of the development.
27. The Appellant has referred to other developments undertaken within the Plotlands area and within close vicinity which are considered to be more extensive in terms of works permitted than this development before me. Whilst each proposal must be considered on its individual merits, I have nonetheless taken them into account in so far as the information has been made available to me. However, there is limited information to enable me to undertake a detailed assessment of how the permissions granted for alterations and extensions compare with the original building in each case. Furthermore, the Green Belt assessment as set out under the development plan and within the Framework relates to whether the works would be a disproportionate addition to the building under consideration and that has been the basis for my assessment. No weight in support of the development is added in this context.
28. The Appellant has also contended that there was no basis to withdraw permitted development rights from the appeal property, when consideration is given to other properties in the locality which still benefit from such rights. However, it is a fact that the removal of the permitted development rights was undertaken by condition on a permission granted over 10 years ago and is in place. Furthermore, there are procedures for seeking to amend or remove conditions if sought. I cannot therefore place any weight in support of the development on this basis.

Conclusion

29. The proposal is inappropriate development within the Green Belt and harms openness. In accordance with the Framework, and in particular paragraph 153, substantial weight should be given to any harm to the Green Belt, including harm to its openness. Even taken together, the other considerations put forward provide limited support for the scheme. Therefore, they do not outweigh the harm to the Green Belt and 'very special circumstances' do not exist. Therefore, the extension does not accord with the development plan and there are no other material considerations to outweigh that finding.
30. The Appellant has referred to Article 14 of the Human Rights Act as well as the Equality Act 2010 and the associated public sector equality duties. I have had full regard to these duties but conclude that in the particular circumstances of this case the harm I have concluded to the Green Belt outweighs the benefits to the individual Appellant, taking full account of the information provided on her medical conditions. For the reasons set out in my decision letter, it is proportionate and necessary to dismiss the appeal in pursuance of a well-established and legitimate aim to protect the Green Belt.
31. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR