



Appeal Decision

Site visit made on 3 January 2025

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/R0335/W/24/3346969

Blackthorn Cottage, Chawridge Lane, Winkfield, Windsor SL4 4QR

- 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 B Adolph against the decision of Bracknell Forest Borough Council.
 - The application Ref is 23/00665/FUL.
 - The development proposed is the demolition of the existing dwellinghouse, annexe and outbuildings and the erection of a replacement dwelling with an electric charging point. Stopping up of the southern access. Laying of a reinforced gravel driveway with cobble rumble strip to site entrance. Landscaping works including an outside kitchen and the laying of a deck surround to a swimming pool.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwellinghouse, annexe and outbuildings and the erection of a replacement dwelling with an electric charging point. Stopping up of the southern access. Laying of a reinforced gravel driveway with cobble rumble strip to site entrance. Landscaping works including an outside kitchen and the laying of a deck surround to a swimming pool at Blackthorn Cottage, Chawridge Lane, Winkfield, Windsor SL4 4QR in accordance with the terms of the application, Ref 23/00665/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have amended the description of the proposal slightly to remove superfluous information that relates to details of the certificate of lawfulness for a swimming pool.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies; and
 - Whether or not the proposal would result in the unacceptable loss of a dwelling.

Reasons

Whether or not inappropriate development

4. The National Planning Policy Framework (Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions including the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
6. Policy LP34 of the Bracknell Forest Local Plan 2020-2037 adopted in March 2024 (BFLP) and Policy W1 of the Winkfield Parish Neighbourhood Plan July 2022 (WPNP) are consistent with the Framework as they set out that proposals for development within the Green Belt will be determined in accordance with relevant national Green Belt policy.
7. In relation to replacement buildings, the explanatory text in support of Policy LP34 of the BFLP sets out as a general guide, a replacement building that would result in an increase in the volume of the existing building by more than 20% is very likely to be regarded as materially larger.
8. The explanatory text sets out that the floorspace of existing outbuildings will not normally be taken as counting towards the floorspace of the existing building to be replaced unless it is closely related to the existing building and is ancillary to the main use of the building.
9. To my mind, the starting point for the calculation is the volume of the existing house, including any outbuildings that are closely related to it. It is common ground that an existing stable block should be included in the calculation. However, there is disagreement about whether the residential annex should be taken into account. A certificate of lawful use or development (CLUD) was granted in 2012 for the use of the annex as a separate dwellinghouse. Technically therefore it is not ancillary to the main use of the building.
10. However, there are some factors that persuade me to include it in the calculation. Firstly, the annex is very small, in a poor state of repair and does not appear as a separate dwelling but rather as a subservient outbuilding that is closely related to the main house having been converted from a detached garage. Further, it has been previously taken into account by the Council when they concluded that a previously approved scheme should not be considered inappropriate development.
11. I appreciate that scheme was materially different as it involved a proposal for two dwellings and the annex was taken into account when deciding whether the smaller dwelling was materially larger than the existing annex building and a proportion of the stable block. However, to my mind to exclude it from the calculation in this case would be an unnecessarily narrow approach when what I am trying to ascertain is

whether the proposed development would involve a replacement building that is not materially larger than the building it replaces.

12. So, although technically the annex is a separate residential use, in practice it appears as a subservient building that is closely related to the main house. On that basis I have taken it into account when deciding whether the proposed replacement building would be materially larger than the one it replaces. I do so on the basis that in my judgement, the main house together with the stable block and annex building can sensibly be considered together in comparison to what is proposed to replace them.
13. It is common ground between the main parties that if the annex is taken into account the proposed replacement building would not result in an increase in the volume of the existing building by more than 20% in comparison to the buildings it replaces. The extent of physical built development on the site is essentially a matter of fact and I consider that as set out in the explanatory text that supports Policy LP34 of the BFLP, volume is an appropriate measure. Consequently, the proposed development would be a replacement building that would be in the same use and would not be materially larger than the one it replaces.
14. I therefore conclude that the proposed development would not be inappropriate development in the Green Belt. Consequently, the proposal would accord with the Framework and Policy LP34 of the BFLP and Policy W1 as set out above. Bearing in mind that conclusion, the proposal would not be harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.

Whether or not unacceptable loss of a dwelling

15. As set out above, the annex is very small, in a poor state of repair and does not appear as a separate dwelling but rather as a subservient outbuilding that is closely related to the main house having been converted from a detached garage.
16. Policy LP 37 of the BFLP seeks to ensure that development which would lead to the net loss of a residential dwelling house will only be permitted if it meets certain criteria. Although, I observed at the site visit that the annex is empty and is in a state of disrepair, I accept that the annex could be brought back into use and has not been formally abandoned. However, it is very small and as highlighted by the appellant would not meet Nationally Described Space Standards.
17. The Council consider this to be irrelevant as the space standards came into force after the CLUD for the annex was granted. However, I do not agree. While the explanatory text in support of Policy LP 37 of the BFLP supports proposals that bring empty homes into use, any benefit of doing so is significantly undermined if the accommodation would not provide an appropriate standard of accommodation.
18. That is the situation here, although technically the annex could be brought back into use it would not provide suitable living conditions for future occupants. Although again technically the annex could be extended or retrofitted, given its current condition and its position so close to the existing home I am not satisfied that the appellant or any future owner of the land would undertake such works, and I afford this theoretical possibility very limited weight in the determination of the appeal.
19. Overall, the loss of the annex would not be harmful and does not therefore weigh against the proposed development. Moreover, the appellant has been granted prior

approval for the demolition of the annex and although this has not been implemented and if it had been it would have had a bearing on Green Belt matters, to my mind it does show a clear intent that whatever the outcome of this appeal the appellant intends to demolish the annex in the future. Consequently, this reinforces my view that the loss of the annex should not weigh against the proposed development. For clarification, this main issue is entirely separate from my findings in relation to the Green Belt main issue and my findings in relation to the proposed loss of the annex does not alter my conclusions on the impact of the proposal on the Green Belt.

20. I therefore conclude that the proposal would not result in the unacceptable loss of a dwelling and although the proposal would not strictly accord with Policy LP 37 of the BFLP for the reasons set out above it would not result in any harm and consequently this matter does not weigh against the proposed development.

Conditions

21. I have had regard to the conditions suggested by the Council and the comments on them from the appellant. Consequently, I have amended, and where appropriate deleted them as necessary in the interests of precision and clarity, as well as to comply with advice in the Framework and Planning Practice Guidance (PPG). It is necessary to impose pre-commencement conditions, and the appellant has confirmed that they agree to such conditions.
22. A condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning. Given the existence of bat roosts it is necessary to impose a condition to ensure that a wildlife protection scheme is submitted and approved prior to the commencement of development. This is reasonable despite the fact a licence will be required in any event and that prior approval has been granted to demolish the annex. However, as the ecological survey has already been updated it is not necessary to require that an updated version is required. In the interests of protecting any archaeological remains it is necessary to impose relevant conditions
23. In the interests of biodiversity, it is necessary to impose a condition requiring that a scheme for the provision of biodiversity enhancements is submitted and approved. It is also reasonable to impose a condition to ensure that any external lighting takes account of biodiversity. Although the appellant has provided details of landscape planting these are not shown in detail on the approved plans, it is therefore necessary to impose a condition in relation to landscaping
24. In the interests of the character and appearance of the area it is necessary to impose a condition to ensure that the details of the materials to be used are submitted and approved. In the interests of highway safety, it is necessary to impose a condition in relation to vehicle parking and to ensure the proposed car port is used for the parking of vehicles.
25. In relation to the proposed gate, it is not necessary to prevent one being erected, but I will impose a condition to ensure that any gate should be set back by a sufficient distance from the road and relevant details should be submitted and agreed in writing by the local planning authority. In the interests of the sustainability and the character and appearance of the area it is necessary to impose a condition to require details of cycle parking facilities to be submitted and approved.

26. Since the appeal site is located within the Green Belt it is necessary to impose a condition to restrict permitted development rights. Similarly, it is reasonable to impose a condition to ensure the existing buildings on site are demolished but I have amended this condition as it is not necessary that this work is undertaken before any works commence on the replacement dwelling.
27. In the interests of sustainability and as the proposed limit exceeds minimum building regulation requirements, it is necessary to impose a condition to ensure water is used efficiently. Finally, given the scale of the proposal it is not necessary to impose a condition requiring that the dwelling meets the optional requirements in relation to accessibility as set out in the building regulations as it will have to meet the relevant building regulation requirements for a visitable dwelling any event.

Conclusion

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

S Rawle

INSPECTOR

Schedule of 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 nos: 2303_P_100 - Site Location Plan; 2303_P_102 - Proposed Site Block Plan; 2303_P_201 - Proposed Ground Floor Plan; 2303_P_202 - Proposed Roof Plan; 2303_P_301 - Proposed Section; 2303_P_401 Proposed East and West Elevations; 2303_P_402 - Proposed North and South Elevations.
- 3) No development, including any demolition works shall take place until a wildlife protection scheme has been submitted to and approved in writing by the local planning authority. The wildlife protection scheme shall include: A plan showing wildlife/habitat protection zones; a bat mitigation strategy, including details of persons responsible for compliance with legal consents and planning conditions, installation of any protective measures and inspection and maintenance; details of development and construction methods within the wildlife/habitat protection zones and measures to be taken to minimise the impact of any works; and details of phasing of construction.

The protection plan shall be implemented in accordance with the approved scheme.
- 4) No development (including demolition) shall take place until:
 - (i) A Written Scheme of Investigation to include an archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and

- (ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority
- 5) No development (including demolition) shall take place other than in accordance with the Written Scheme of Investigation approved under condition 4.
 - 6) No development (including demolition) shall take place until a scheme for the provision of biodiversity enhancements (not mitigation), including a plan or drawing showing the location of the proposed enhancements and a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved scheme.
 - 7) Prior to the installation of external lighting, full details including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
 - 8) No development shall commence until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
 - 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 10) No development above ground level shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 11) The dwelling hereby approved shall not be occupied until space has been laid out within the site for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear in accordance with details that have been submitted to and approved in writing by the local planning authority. That space shall thereafter be kept available at all times for those purposes.
 - 12) Any gate at the vehicular access shall be set back by a minimum of 6 metres from Chawridge Lane and prior to its installation full details including height, design, location and materials shall be submitted to and approved in writing by the local planning authority. The gate installation shall then be carried out in accordance with the approved details.

- 13) The dwelling shall not be occupied until a scheme for the secure parking of bicycles has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved scheme and that space shall thereafter be kept available for the storage of bicycles.
- 14) The car port hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, D and E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 16) The existing buildings shown to be demolished on the approved plans shall be removed in full prior to the occupation of the dwelling hereby permitted.
- 17) No development above ground level shall take place until a sustainability statement covering water efficiency in order to achieve an average water use of 110 litres per person per day has been submitted and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved sustainability statement and retained in that form thereafter.