



Appeal Decision

Site visit made on 14 January 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 February 2025

Appeal Ref: APP/C3620/D/24/3347044

Abinger Hall, Guildford Road, Abinger Hammer, Surrey RH5 6QA

- 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 Craig and Trudie Smyth against the decision of Mole Valley District Council.
 - The application Ref is MO/2024/0194.
 - The development proposed is described as the erection of a detached glazed outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I have considered the changes including those to the Green Belt section, however whilst the proposal is located in the Green Belt, the changes are not material to the scheme before me, thus further comments were not sought by parties. Consequently, I have determined the appeal having regard to the revised Framework, and any references are to this version.
3. Since the Council issued its decision on the planning application, the new Mole Valley Local Plan (MVLP) 2020-2039 has been adopted on 15 October 2024. As such, I have taken it into account in my decision. In regard to this appeal the Council have indicated that the relevant MVLP policies are S1, EN1 and EN4. The appellant has had the opportunity to comment on these new policies.
4. There is another appeal at the same property also against the refusal of planning permission by Mole Valley District Council. This appeal is for the *“construction of a glazed roof over the existing fives court and link to the aviary to provide a recreational/exercise space”* and is the subject of a separate decision.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies and the effect on openness; 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 proposal.

Reasons

Whether inappropriate development

6. Policy EN1 of the MVLP highlights that inappropriate development will not be permitted in the Green Belt, unless very special circumstances are demonstrated which are concluded to outweigh the potential harm, including harm to the openness of the Green Belt and the purposes of including land within it, however it also sets out a number of exceptions. These include but are not limited to 3.a. the extension or alteration of an existing building, including ancillary buildings providing that they are not disproportional to the original building; and 3.c. buildings or other structures which it has been demonstrated are reasonably necessary to support agricultural, horticultural or forestry use of the site. These are generally consistent with the Framework.
7. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework establishes that buildings and other forms of development would be inappropriate unless they meet a listed number of exceptions. The exceptions most relevant to this appeal are: 154.a) buildings for agriculture and forestry and 154.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. I shall deal with each of these in turn.
8. In regard to criterion 154.a) the appellant highlights that the detached glazed outbuilding would be used for horticultural purposes which include the growing of fruit, vegetables and other plants for use and consumption by their household. Whilst it is acknowledged that horticulture is included within the definition of agriculture¹, the structure would be sited within the curtilage of a private residential property, rather than agricultural land.
9. I have had regard to the counsel advice provided by the appellant. This sets out that the detached glazed outbuilding would be within the same 'planning unit' as the dwelling itself and the lawful use of the land is currently residential. It also confirms that when there are a variety of activities, and it is not possible to say that one is incidental or ancillary to another, the planning unit could be a composite use where the component activities fluctuate in their intensity from time to time.
10. Furthermore, it acknowledges that the fact that the use of the detached glazed outbuilding is to grow crops for personal consumption by the occupiers of the dwellinghouse, means that it could be argued that the use continues to be incidental to the enjoyment of the dwelling house, rather than a primary use in its own right for agriculture/horticulture and that this is an issue of fact and degree for the decision maker.
11. The appellant highlights that given the scale of the detached glazed outbuilding and its use for horticultural purposes, this could represent as separate agricultural planning unit. Whilst the proposal would be physically separate from the main dwellinghouse, I have been presented with little evidence that it would be used and/or occupied for a different and unrelated purpose, other than as an ancillary use associated with the primary use of the planning unit as a residential property. In my view any horticultural purpose of the appeal site would be domestic in nature

¹ Section 336 of the Town & Country Planning Act 1990

and associated strictly with the primary use as a residential house, providing an ancillary function to the existing residential use.

12. In considering the facts in this matter, I favour the argument that the detached glazed outbuilding would form part of the same residential planning unit. As such, I do not consider that the proposal would benefit as an exception under paragraph 154.a) of the Framework.
13. Turning to criterion c) planning case law² highlights that an extension need not have physical attachment to the existing property in order to be deemed an extension. The detached glazed outbuilding would be located within the curtilage of the dwellinghouse and would be ancillary to the main property, therefore it is a matter of planning judgment whether it would be considered an extension.
14. In this case, the proposal would comprise a detached glazed outbuilding for the appellants to grow fruit, vegetables and other plants, akin to a domestic greenhouse. This type of space would have a functional relationship with the host property and would be a common practice within a residential curtilage. Nevertheless, its scale would be considerably larger than that of a conventional domestic greenhouse. As such, by virtue of its size, siting and detached appearance it would therefore appear to go beyond what can be reasonably considered a normal domestic adjunct³.
15. Even if, I was to assess the proposed detached glazed outbuilding as an extension, it would need to meet with the second limb of paragraph 154.c) of the Framework, in regard to whether it would be a disproportionate addition over and above the size of the original building. The supporting text of Policy EN1 of the MVLP provides guidance for assessing disproportionate additions. Design, bulk and mass and their impact on the scale of the building, in addition to impact on openness are all considerations. Whilst floorspace is a factor, the assessment is predominantly a qualitative one which is unique to the design and massing of each individual building.
16. The baseline in each case is the 'original building'. This is defined in the Framework as the building as it existed on 1 July 1948 or, if the first building was constructed later than this, the first building constructed. In this case, the appellant highlights that outline planning permission⁴ was approved in 2015. Following the approval of subsequent reserved matters the development was built out. This would therefore represent the original building as it was the first building constructed after 1948.
17. The appellant indicates the original building consisted of a footprint of 557m². Both parties acknowledge that the original building has been subject to several extensions and alterations over time. These include the construction of a swimming pool,⁵ sunken garage,⁶ two single storey side extensions to replace the extant colonnaded courtyards,⁷ roof over an existing sunken passage to the side of the garage,⁸ and other minor fenestration alterations. The appellant highlights that

² Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)

³ Sevenoaks District Council v SSE and Dawes [1997]

⁴ Mole Valley Planning Ref: MO/2015/1591/OUT

⁵ Mole Valley Planning Ref: MO/2019/0009

⁶ Mole Valley Planning Ref: MO/2019/0384

⁷ Mole Valley Planning Ref: MO/2023/0311

⁸ Mole Valley Planning Ref: MO/2023/1964

these provide a combined floor area of 817m², and the provision of the detached glazed outbuilding would add a further 87m² in terms of footprint.

18. The proposal has been designed to a high standard, and the provision of the large sections of glazing would provide an ephemeral and diaphanous structure. Taken in isolation, the design of the proposal could be a positive factor in a qualitative assessment. However, when considered collectively with the existing extensions and alterations, it would amount to a substantial addition, and one which I find to be disproportionate over and above the size of the original building. Accordingly, the exception set out in paragraph 154.c) of the Framework would not apply.
19. Bringing these strands together, I find that the proposal would not meet the exceptions in the Framework paragraphs 154.a) or 154.c), nor the exceptions under criteria 3.a. and 3.c of MVLP Policy EN1. In not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which paragraph 153 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
20. However, I find no conflict with policies S1 and EN4 of the MVLP. Policy S1 is a strategic policy that relates to the management of sustainable growth within the borough; whilst policy EN4 is concerned with character and design, which are both largely irrelevant to the main issue, which is whether the proposal would be inappropriate development in the Green Belt.

Openness

21. Openness can have both spatial and visual aspects, and the proposal would introduce new development consisting of a detached glazed outbuilding. The proposal would provide a larger quantum of built development than currently exists on site, thus would result in an adverse impact on the openness of the Green Belt in spatial terms.
22. With regard to the visual aspect, there would be extremely limited public views of the proposal, given the private location of the site and the gated boundary treatment. Furthermore, the secluded location amongst the existing development would have no significant effect on the visual aspect of openness of the Green Belt.
23. Overall, whilst I find there would be no harm to the visual dimension of the openness of the Green Belt, there would be to the spatial dimension. Therefore, the proposal fails to preserve the openness of the Green Belt.

Other considerations

24. Paragraph 153 of The Framework instructs that substantial weight should be given to any harm to the Green Belt, including harm to its openness, and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
25. I have been referred to an example of planning permission in the Green Belt which the appellant considers show inconsistency in decision making by the Council⁹. From the information I have been provided, this scheme related to a polytunnel for

⁹ Appellants Statement of Case - Appendix 1

horticultural purposes to replace an existing netted growing enclosure. Whilst drawing similarities with the appeal before me, I have assessed this scheme based on its own merits. While consistency in decision making is important, ultimately, what constitutes an exception under Green Belt policy needs to be determined in the light of the specific circumstances and context of each case. My decision is based on the facts pertaining to Abinger Hall and I am not bound by decisions reached elsewhere by the Council in my determination of the appeal. Accordingly, I give this limited weight.

26. The proposal benefits from a high standard of design, which includes a number of eco-friendly and sustainability enhancements, set against the Councils climate emergency strategy to consume local produce to minimise the carbon footprint associated with transportation. To these benefits I apportion modest weight given the scale and nature of the proposed development.
27. The Council consider the development has no adverse effect on the character and appearance of the area or the Surrey Hills National Landscape (formally Area of Outstanding Natural Beauty), the amenity of neighbouring occupants, highway safety or any impact on biodiversity. Nonetheless, the absence of harm in these regards does not carry positive weight in favour of the development.

Green Belt balance and conclusion

28. The proposal would be inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt, and development should not be approved except in very special circumstances. In addition, I have found that the scheme would also have a reduction in the spatial aspect of Green Belt openness. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
29. The other considerations are not of sufficient weight to amount to the very special circumstances necessary to justify the proposal. There are no material considerations that indicate that the appeal should be determined other than in accordance with the Green Belt provisions of the Framework.
30. The proposal would therefore conflict with the development plan taken as a whole and there are no other considerations that outweigh this. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR