



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/24/3347083

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/2024/0033.
 - The development proposed is described as the construction of a glazed roof over the existing fives court and link to the aviary to provide a recreational/exercise space.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of a glazed roof over the existing fives court and link to the aviary to provide a recreational/exercise space at Abinger Hall, Guildford Road, Abinger Hammer, Surrey RH5 6QA in accordance with the terms of the application, Ref MO/2024/0033, 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 nos: 23107 S401; 23107 S402; 23107 S410 and 23107 S411.
 - 3) No development shall take place until details / samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted 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 / samples.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

3. 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.
4. 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.

5. 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 *“erection of a detached glazed outbuilding”* and is the subject of a separate decision.

Main Issues

6. 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

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 exception most relevant to this appeal is 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.
8. The term building¹ includes any *‘structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building’*. In applying this definition walls, fences, gates and curtilage structures could be regarded as ‘buildings’ for the purposes of the Framework. The appeal site consists of an existing Arts and Crafts structure known as the Aviary adjoining a ‘fives court’. The fives court is a structure which has been cut into the existing topography and is enclosed on four sides incorporating walls but no roof. As such, the fives court and the Aviary are considered buildings under the meaning of the Act.
9. In assessing whether a proposal is disproportionate, the ‘original building’ must be determined in order to establish a baseline. 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 the fives court and Aviary are original buildings that existed in 1948 prior to the demolition of the original house. I have not been presented with any evidence to the contrary. The proposal consists of a glazed canopy over the existing fives court and the creation of a mezzanine floor providing a link through to the Aviary, to create a private gym for the appellant.
10. The proposal would occupy a similar footprint to the fives court given that it is currently an open enclosure and is surrounded on all sides by built forms. As such,

¹ Section 336 of the Town and Country Planning Act 1990 (the Act)

the only increase in the size of the proposal would be the height of the glazed panels above the existing walls, the glazed roof and a small increase in floor space, with the provision of the mezzanine link from the fives court to the Aviary. The proposal would appear as a logical continuation to these structures and would not dominate their appearance given that it would be subordinate to the existing built form. Furthermore, given its lightweight appearance and the minor increase in size from the existing buildings, the proposal would not appear overly large in comparison with these. Whilst adding volume this would be comparable to the existing structures and given the glazed appearance, overall, the proposal would not appear disproportionate to the fives court or the Aviary.

11. Policy EN1 of the MVLP is broadly consistent with the approach of the Framework in that inappropriate development will not be permitted in the Green Belt, subject to exceptions. These include 3.a. the extension or alteration of an existing building, including ancillary buildings providing the development does not result in disproportionate additions over and above the size of the original building. The supporting text of Policy EN1 provides guidance for assessing disproportionate additions, stating the Council will adopt a qualitative approach. Each proposal would be assessed on its own merits, taking into account the design, bulk, mass and floorspace of a proposal and their impact on the scale of the building, in addition to impact on openness, which are all considerations in the qualitative assessment.
12. It is acknowledged that the scheme provides an increase in volume and is moderately taller than the existing fives court. However, in applying the qualitative approach and judging the proposal on its individual merits in accordance with the Council policy, the proposal is of a high standard of design and given its lightweight and diaphanous appearance would be subordinate to the original buildings. Consequently, there is no substantive or compelling evidence to demonstrate that it would result in a disproportionate addition. As such, I consider that this is the type of development that the qualitative approach is seeking to promote.
13. Overall, I am satisfied that the proposed extension would complement the existing buildings in a manner that would not be disproportionate. Therefore, I conclude that the proposal would not be inappropriate development in the Green Belt in accordance with paragraph 154.c) of the Framework and MVLP policy EN1. 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.
14. In terms of effect on openness I have concluded that the proposal would not be inappropriate development. In accordance with established case law² it should not be regarded as harmful either to openness of the Green Belt or to the purposes of including land in the Green Belt. Because of my findings it is also not necessary to consider whether very special circumstances exist.

² Lee Valley Regional Park Authority, R (on application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404.

Other Matters

15. The Council has concluded that the proposal would not harm the landscape and scenic beauty of the Surrey Hills National Landscape (formally Area of Outstanding Natural Beauty). Given its relatively modest size and location amongst the existing buildings and main residential dwelling at the site, I have no reason to disagree.
16. It is acknowledged that the glazed structure would emit light during periods of use particularly in the evening. However, given its relatively tucked away location amongst the existing buildings, the proposal is not considered to result in unacceptable light spill over and above that already experienced at the site.

Conditions

17. To meet legislative requirements, a condition is imposed to address the period for commencement. A condition is imposed to ensure that the development is carried out in accordance with the approved plans, in the interests of certainty. A condition is also necessary to ensure that materials are suitable with the existing buildings and protect the character and appearance of the host building and surrounding area.

Conclusion

18. For the reasons given I conclude that the appeal should succeed.

Robert Naylor

INSPECTOR