



Appeal Decisions

Site visit made on 30 January 2024

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2024

Appeal A Ref: APP/D3640/W/23/3322996

Wood End House, Dukes Covert, Bagshot, Surrey GU19 5HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr C Hodgson against the decision of Surrey Heath Borough Council.
- The application Ref 23/0201/FFU, dated 22 February 2023, was refused by notice dated 12 May 2023.
- The development proposed is conversion, extension and change of use of part of existing dwelling to provide two units of visitor accommodation for short term lets.

Appeal B Ref: APP/D3640/W/23/3322995

Wood End House Dukes Covert, Bagshot, Surrey GU19 5HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr C Hodgson against the decision of Surrey Heath Borough Council.
- The application Ref 23/0091/FFU, dated 26 January 2023, was refused by notice dated 21 April 2023.
- The development proposed is removal of rear flat roof dormer to reinstate hipped end roof and installation of roof lights to front and rear.

Decisions

1. The appeals are dismissed.

Preliminary Matters

2. In the descriptions above I have removed elements that are not acts of development. For Appeal B I have taken the description of development from the decision notice, as it was indicated that a change from the one given on the application form was agreed.
3. An enforcement notice (EN) was issued by the Council which alleged “the erection of a hip-to-gable and rear dormer roof extension over the single storey side extension and the use of the property as a dwelling house and two (x2) self-contained residential units used as short term let accommodation” at the site.
4. The requirements of the EN are to (1) Cease the use of the two self-contained residential units; (2) Remove from the property the hip-to-gable and rear dormer roof extension; (3) Remove the kitchen and bathroom (including any associated kitchen and bathroom facilities) from the first floor residential unit; (4) Remove all resultant debris associated with the steps above from the property.
5. It appears that there is no enforcement appeal, meaning that the notice came into effect on 23 December 2022 and the six month period for compliance with

the requirements has expired. However, the appellant has applied for planning permission for what is alleged and on the ground.

6. The extension subject to Appeal A is the 'as built' or 'existing' hip to gable and dormer roof extension as well as the change of use. As the main parties have done, I have considered the scheme on the basis that the development has already taken place.
7. During the appeal a planning obligation relating to mitigation for effects on the Thames Basin Heaths Special Protection Area (SPA) was submitted.

Main Issues

8. The main issues of Appeal A are:

- Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies,
- The effect of the development on the openness of the Green Belt; and
- If the development is inappropriate, 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 the development.

9. The main issues of Appeal B are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies,
- The effect of the proposed development on the openness of the Green Belt; and
- If the development is inappropriate, 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 the development.

Reasons

Green Belt Policy

10. The appeal site is in the Green Belt. No development plan policies are put forward in the refusal reasons with regard to this main issue. The Framework outlines that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
11. One of the exceptions to inappropriate development in the Green Belt is for 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. No definition of disproportionate is given in the Framework.

Appeal A

Whether Inappropriate Development

12. The enlargement of the building subject to the appeal has resulted in a relatively moderate increase in the volume and scale in itself when compared

to the original building. Notwithstanding this, the building has been significantly extended with previous additions leading to more than a 100% increase in floorspace. From the information provided the use is not feasible without the extensions and not severable. Cumulatively, even using the appellants figures, the appeal scheme has resulted in extensions that are disproportionate over and above the size of the original building.

Openness

13. The appeal scheme has led to an increase in the built form from that which is lawful and has therefore spatially reduced the openness of the Green Belt.
14. The position of the hip to gable extension means it is clearly seen in public vantage points from the road to the front as it is located the same side of the plot as the open access. This, and the rear dormer can also be seen from the property adjacent to that side of the building through the existing boundary vegetation.
15. In both spatial and visual terms, the appeal scheme fails to preserve, and there has been a greater impact on, the openness of the Green Belt. Given the scale of the development and that there is some screening, the harm would be small. Nevertheless, this would be contrary to the Framework where it states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

Other Considerations

16. A Lawful Development Certificate¹ (LDC) was granted under S192 of the Town and Country Planning Act 1990. It certified that, on the date of the LDC application, the erection of a single storey side extension was 'permitted development' under Article 3(1) and Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), and therefore would have been lawful.
17. The LDC means that the lawfulness of the erection of a single storey side extension is conclusively presumed unless there is a material change in circumstances. The basis on which the LDC was granted is that what would be erected is a single storey side extension to a (singular) dwellinghouse, since that is what Part 1 of Schedule 2 to the GPDO concerns. However, a change of use has taken place for which the appellant has sought planning permission in this appeal. The change of use means that the building is not currently a (singular) dwellinghouse but rather used as three dwellings/units, albeit that two are occupied as visitor accommodation for short term lets.
18. Article 2(1) of the GPDO is clear that, for the purposes of Part 1, the term 'dwellinghouse' does not include a building containing one or more flats. From the information before me, that is effectively what the short-term let units are. It appears that, notwithstanding the LDC, the erection of a single storey side extension, would not be permitted under the GPDO at present.
19. Even if this was not the case, or the building were to revert to a single dwelling house under S57(4) of the Town and Country Planning Act 1990, permitted development rights would be in place. If the building were to revert to a

¹ 23/0152/CES

dwellinghouse, then there would be some floorspace currently in holiday let use returning to use as part of the dwelling. Nevertheless, the presence of the LDC and comments from the appellant indicate that they would look to proceed with the LDC scheme were the appeal dismissed. It would be a greater than a theoretical possibility that the LDC development might take place.

20. It is suggested that further additions of floorspace to such properties represents an opportunity to further add value. Nonetheless, there is no detailed evidence before me to support this and demonstrate it would be a reason for carrying out the LDC scheme. Moreover, the LDC extension would be located to the opposite side of the dwelling and single storey. It would be more screened, and less visible from the road than the appeal scheme, with only angled views from closer to the access given the frontage vegetation. The LDC extension would also be better screened from the nearest adjacent property that side by the denser boundary vegetation. The appeal scheme is more obtrusive than the LDC extension would be and not be more harmful.
21. Consequently, while larger in size than the extensions subject to this appeal, for the above reasons, I give this fallback position moderate weight.
22. There are a number of large buildings and plots near the appeal site. However, even if I were to agree that there is no harm to the character and appearance of the area, and that sufficient parking could be provided, a lack of harm does not weigh in favour of the scheme. No detailed evidence has been provided to demonstrate that there is a need for visitor accommodation for short term lets. Given this and the number of units, economic and social benefits linked to the scheme attracts minor weight.
23. The appeal site is within the 400m-5km zone of influence of the Thames Basin Heaths Special Protection Area. A planning obligation has been provided in relation to this. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further and in any event, even if suitable mitigation were secured, a lack of harm would only be a neutral factor and not weigh in favour of the appeal.

Conclusion

24. The appeal scheme is inappropriate development in the Green Belt and has led to a small loss of openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. The other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
25. While there has been no conflict with the development plan identified regarding Green Belt, there is with the Framework. No other material considerations, either individually or in combination, outweighs this and the identified harm.
26. Therefore, for the reasons given I conclude that the appeal is dismissed.

Appeal B

Whether Inappropriate Development

27. The appeal scheme would reduce the volume of the appeal building from how it is at present. However, it would still result in a marginal increase, extending the width of the hipped roof, by approximately 0.45m using the appellants

figures, from that which is lawful. Notwithstanding this, as above, it needs to be considered cumulatively with previous extensions. Due to the extent of the previous enlargements, the proposal would result in extensions that would be disproportionate over and above the size of the original building.

Openness

28. The appeal scheme would lead to an increase in the built form from that which is lawful at the building. Therefore, spatially it would reduce the openness of the Green Belt. The position of the proposed widening of the hipped roof means it would be clearly seen in public vantage points from the road to the front as it is located the same side of the plot as the open access.
29. In both spatial and visual terms, the appeal scheme would fail to preserve, and there would be a greater impact on, the openness of the Green Belt from the lawful position. Given the scale of the proposals and that there is some screening, the harm would be minor. Nevertheless, this would be contrary to the Framework where it states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

Other Considerations

30. The LDC that has been issued for an extension to the building would be of a far greater volume than the appeal scheme. Were the building to revert to being used as a (single) dwellinghouse, permitted development rights would apply under Part 1 of Schedule 2 to the GPDO. A condition could be imposed to remove permitted development rights from the property. However, any permitted development rights that are withdrawn by condition may be exercised before the permission is commenced. Therefore, the LDC scheme, or other permitted development, could be implemented as well as the appeal scheme if it were allowed. In the absence of a completed planning obligation to the effect that the appellant would forego their permitted development rights, it would not be possible to prevent this happening. Consequently, I give this fallback position limited weight.

Conclusion

31. The proposal would be inappropriate development in the Green Belt and would lead to a minor loss of openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. The other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
32. While there has been no conflict with the development plan identified regarding the Green Belt, there is with the Framework. No other material considerations, either individually or in combination, outweighs this and the identified harm.
33. Therefore, for the reasons given I conclude that the appeal is dismissed.

Stuart Willis

INSPECTOR