



Appeal Decision

Site visit made on 18 March 2025

by **N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th March 2025

Appeal Ref: APP/K3605/D/25/3358603

Ellesmere, Hill House Drive, Weybridge, Surrey KT13 0NQ

- 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 & Mrs Makhauri against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/1257.
 - The development proposed is a 2 storey side extension, proposed single story side extension, basement extension, alterations to external materials and fenestration, and internal layout.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed 2 storey side extension, proposed single story side extension, basement extension, alterations to external materials and fenestration, and internal layout at Ellesmere, Weybridge, Surrey KT13 0NQ in accordance with the terms of the application, Ref 2024/1257, 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 plan nos. 23-J4357 – 01, 23-J4357 – 02, 23-J4357 – 03, 23-J4357 – 04, 23-J4357 – 05, 23-J4357 – 06, 23-J4357 – 07, 23-J4357 – 08, 23-J4357 – 09, 23-J4357 - LP01.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials set out at 4.4 of the Design and Access Statement.
 - 4) No development above natural ground level shall take place until a bat habitat protection plan has been submitted to and approved in writing by the local planning authority. The bat habitat protection plan shall include the results of a bat emergence survey to be conducted in accordance with the recommendations at Part 8 of the Preliminary Ecological Appraisal and Preliminary Roost Assessment Report by aLyne Ecology Ltd and;
 - a) if the presence of bats is detected, a plan showing bat habitat protection zones; and
 - b) details of development and construction methods within bat habitat protection zones and measures to be taken to minimise the impact of any works; and
 - c) details of phasing of construction;shall be submitted to an approved in writing by the local planning authority.

The protection plan shall be implemented in accordance with the approved plan.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. Although the changes to the Framework include revisions to the Green Belt chapter, these are not material to this decision and the parties have therefore not been invited to make further comments in this regard.
3. The appellant did submit additional information with the appeal, most notably the opinions of Counsel and a Preliminary Ecological Appraisal and Preliminary Roost Assessment Report (PEA & PRA). Whilst the Council will not have had the responded to these documents, it is able to identify any factual error in the appellant's grounds of appeal and any new material which were not available at the time it made its decision on the application. The Questionnaire highlighted that it was satisfied the procedure was appropriate for this appeal.
4. As such I have taken into account the evidence provided by the appellant and am satisfied that no parties have been prejudiced as there is no substantial difference or fundamental change to the application¹ and the Council have not been deprived of the opportunity to comment.

Main Issues

5. The main issues are:
 1. whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies including the effect of the proposal on the openness of the Green Belt, and
 2. the effect of the development on roosting bats.

Reasons

Effect on Green Belt

6. The appeal site is within the Green Belt. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate unless one of the certain exceptions applies. This includes, at paragraph 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. Original building is defined at Annex 2 of the Framework as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
7. Policy DM18 of the Elmbridge Local Plan Development Management Plan 2015 (ELP) states that Extensions and alterations to a building will be permitted provided they do not result in disproportionate additions over and above the size of the original building, either individually or cumulatively. Criteria i. to iii. set out that extensions should respond to the site, not result in an increase beyond 25% in volume and 25% in footprint and not materially increase the height of the building.
8. The supporting text at paragraph 2.79 of the ELP specifies that the original building will be determined based on its size as existing on 1 July 1948 or as first

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

built if later than this date. Whilst case law has shown that the supporting text is an aid to the interpretation of the policy but is not itself policy², it remains pertinent here as no definition of “original building” is provided within the DM18. Moreover, this interpretation concurs with the appeal decisions and legal opinions provided by the appellant.

9. The slight differences in wording between the Framework and the supporting text to ELP policy DM18 effectively amount to the same thing in this context. Namely, that the extension is judged against the building as it existed on 1 July 1948 or as built after that date. In this instance the existing building is a replacement of a former property and the one that sits on the site today, constructed circa 1999³, is therefore the original. This interpretation matches a reasonable reading of both the definition in the Framework and the supporting text to policy DM18.
10. The extensions and alterations to the property result in it being remodelled to a different style but this would not be at odds with the diverse range of homes in the area and responds to the site. It would therefore accord with criterion i. of policy DM18. The appellant has provided a calculation on the increase in the size of the dwelling and considers that the property would be increased by 24.5% in floorspace terms and 17.35% in volume and I have no reason to disagree with this calculation. The Council has only provided a calculation in relation to the pre-existing building that was on the site and, as explored above, I have not found this to be the correct interpretation of policy DM18 or the Framework definition. Therefore, the footprint and volumetric increases would comply with criterion ii. of policy DM18. The height of the extensions does not exceed the ridge line of the existing property such that compliance with policy DM18 iii. is achieved.
11. From a spatial perspective, the development remains subordinate to the original building as was original and first built in circa 1999. From a visual perspective, the most noteworthy side extension would project to the side of the house and extend the built form in this direction. However, it would fill in an existing corner between the staff wing and garages and the main house. Although it would occupy a relatively elevated position, this would be an inevitable consequence of almost any extension to the side or rear due to the surrounding undulating topography. In any case, the site remains well screened by many mature trees and other landscaping to all boundaries. Whilst the extension would be visible in some views from the surrounding area, this is likely to be minimal, especially in summer months.
12. I therefore conclude that the proposal would not result in disproportionate additions over and above the size of the original building, would not result in harm to the openness of the Green Belt and would comply with policy DM18 of the ELP and provisions of the Framework.

Effect on bats

13. The appeal was submitted including a PEA & PRA. This document identified a high suitability to support roosting bats in the existing buildings on the site. It further identified a need for further emergence surveys however these can only be carried out in the May to September period. The appellant has indicated that such surveys have already been commissioned to be undertaken in the appropriate season.

² Cherkley Campaign Ltd, R (on the application of) v Mole Valley District Council & Anor [2014] EWCA Civ 567

³ Council ref 1999/1469

14. I have therefore imposed a condition requiring the submission and approval of a bat protection plan during construction works following the completion of the emergence survey. This will ensure that the effect of works on bats is mitigated. In any case, I am aware that bats are further protected under other legislation and it is not necessary for me to impose conditions here that duplicate this other legislation.
15. I have had regard to the further recommendations regarding bats in the PEA & PRA however these predominantly relate to levels of illumination from light sources and my ability to control these through the use of planning conditions here is limited as such lighting installations may not require planning permission or would otherwise have deemed permission (commonly known as permitted development).
16. I conclude that, with a condition, the proposed development would not have an adverse effect on roosting bats and the development therefore complies with policy CS15 of the Elmbridge Core Strategy 2011 and DM21 of the ELP insofar as it would preserve, manage and where possible enhance existing habitats, protected species and biodiversity features.

Conditions

17. I have imposed a condition to ensure the development is commenced within three years of the date of this decision to accord with the provisions of the Act. A condition relating to adherence to the approved plans is imposed for certainty.
18. Considering the general remodelling of the existing fenestration I have imposed a condition relating to the materials to be used in the development to be those which are set out in the Design and Access Statement.
19. My rationale for the imposition of the bat protection plan is set out above.

Conclusion

20. For the reasons given above, I conclude that the proposed development would not be inappropriate development in the Green Belt, nor would it have an adverse effect on roosting bats. The development therefore complies with the provisions of the development plan and the Framework, and the appeal should succeed.

N Bowden

INSPECTOR