



Appeal Decision

Site visit made on 14 March 2025

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal Ref: APP/K3605/D/24/3357511

Burleigh House, Rabbit Lane, Hersham, Walton-on-Thames, Surrey KT12 4AX

- 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 Tait against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/1704.
 - The development proposed is extension and alterations to replace existing conservatory, together with alterations to existing basement swimming pool including the provision of replacement light lanterns and a sunken patio area to the south with new windows to pool area and retaining wall.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have determined the appeal based on the description of development stated on the planning application form as it accurately describes the proposal that is shown on the submitted drawings.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework ("the Framework").
 - The effect of the proposed development on the openness of the Green Belt.
 - The effect of the proposed development on trees.

Reasons

Whether inappropriate development

4. Policy DM18(a) of the Elmbridge Local Plan Development Management Plan, April 2015 ("the ELP") states that extensions and alterations to a building in the Green Belt will be permitted provided they do not result in disproportionate additions over and above the size of the original building, either individually or cumulatively. Support will be given to, amongst others, proposals that do not result in an increase in volume and footprint beyond 25%, and do not materially increase the overall height of a building.
5. Paragraph 154 of the Framework, states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, subject to specific exceptions. The evidence indicates that the relevant exception to this

appeal is 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, as set out in Framework Paragraph 154.c).

6. The ELP states that the 'original building' will be determined based on its size as existing on 1 July 1948 or as first built if later than this date. The Framework defines an original building as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. The evidence indicates that the appeal building is a replacement dwelling that was granted planning permission in July 2010, and subsequently amended in 2011. The Council does not regard the replacement dwelling to be the 'original' building.
7. However, on the evidence before me I find no material difference between the definitions of an original building in the ELP and the Framework, and there is limited explanation from the Council as to why the replacement dwelling as originally built should not be considered as the original building. It is my interpretation that the appeal building as originally built would constitute the 'original building' under those definitions. Consequently, it forms the baseline against which subsequent extensions and alterations should be assessed.
8. The evidence indicates that subsequent additions to the original building include a basement extension incorporating a swimming pool, gym facilities and associated works and a single storey side extension incorporating the basement works for the pool, gym facilities and plant room with two ground level skylights. A single storey side extension and conservatory with timber decking over the basement was added and granted planning permission retrospectively on appeal¹ in 2013 ("the 2013 Appeal").
9. In the 2013 appeal, the Inspector found it correct to include both the basement and the conservatory in the calculations of the accumulated increase in the size of the original building. He found that those subsequent additions have cumulatively increased the floor area of the original dwelling by about 43% of which some 13% would be visible, with the remaining 30% being formed by the basement, which he found had no impact at all on the openness or appearance of the area. Because the visible increase in the size of the building was relatively small at some 13%, the Inspector concluded that the cumulative alterations and additions to the appeal building were not disproportionate over and above the size of the original building.
10. The 2013 appeal decision provides relevant figures in respect of the floor areas of those subsequent additions to the original building. However, that decision related to a materially different proposal that was considered under different planning policies. The appeal proposal before me falls to be considered under the current development plan and ELP Policy DM18, which sets a 25% metric for assessing the proportionality of an addition over and above the size of the original dwelling. For these reasons, the 2013 appeal decision is of limited relevance and weight to my considerations in this appeal.
11. The appeal dwelling is raised above the general level of the property's generous garden and set on broadly level ground with a generally consistent ground floor level. The basement is wholly subterranean in its existing form. The decking above the roof of the basement, which contains discreet rooflights, reads visibly as a decked surface to the garden and not as part of the existing building.

¹ APP/K3605/D/13/2200764

12. The appeal proposal before me would involve the excavation of land to create a sunken patio. This would expose and reveal the south facing wall of the basement, which would be altered with the addition of doors. This would result in the existing basement, including its roof and larger roof lanterns, being an obviously identifiable part of the built form of the appeal building. It would therefore read visibly as an outward expansion of the building into the garden forming a visible lower ground floor storey and increasing the visible spread of its built form.
13. The footprint and volume of the basement would therefore be a clearly visible part of the appeal building and it would no longer be wholly subterranean. It would visibly increase the footprint and volume of the appeal building, and thus its size. Changing the design of the lanterns to a flat design would not alter my conclusion on this matter. ELP Policy DM18 regards basements which are not wholly subterranean as contributing to the increase in the volume and footprint of a building.
14. The appellants' calculations indicate that the proposed outdoor kitchen extension would increase the visible footprint of the appeal building by around 18% greater than that of the original dwelling as it was constructed. This is below the 25% footprint indicator in ELP Policy DM18(a). However, even if the proposed outdoor kitchen extension would not increase the footprint of the dwelling owing to its position above the basement, it would nonetheless add volume to the building.
15. On the evidence before me and for the reasons given above, the proposed kitchen extension and the proposed exposed altered basement would amount to a visible increase in the footprint and volume of the original building beyond 25%, when taken cumulatively with all subsequent additions. No substantive evidence to the contrary, including volume calculations, has been advanced by the main parties.
16. Therefore, the proposed development would result in disproportionate additions over and above the size of the original building, contrary to the exceptions for extensions and alterations to a building in the Green Belt in ELP Policy DM18 and Paragraph 154.c) of the Framework. Consequently, I conclude that the appeal proposal would constitute inappropriate development in the Green Belt.

Openness

17. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The openness of the Green Belt is evident around the appeal building and is derived in part from the sense of openness in its garden. The built form and massing of the outdoor kitchen extension and basement would increase the visible floor area and volume of the building. The exposure of the basement's south facing wall would visibly reveal it as a lower ground floor, which together with its decked roof and lanterns, would be clearly identifiable as part of the built form of the appeal building.
18. The land in front of the basement and around the proposed sunken patio would be remodelled into a 'ha-ha' to restrict the basement's visibility in medium and longer distance views. However, the built form of the basement would be visible in close distance views from within the appeal property's garden and proposed patio. It would be seen as an outward expansion of the building, protruding for some distance beyond its principal south facing elevation and into the appeal property's garden. As such it would result in a harmful loss of Green Belt openness in both spatial and visual dimensions, albeit to a modest and localised extent. In terms of

ELP Policy DM18, the appeal proposal would have a materially greater impact on the openness of the Green Belt.

Trees

19. The evidence indicates that trees protected by a Tree Preservation Order are growing along the access driveway to the appeal property and close to its eastern boundary. The existing driveway appears to be hardsurfaced with no apparent restriction on its use by heavy vehicles delivering items to the property, which would likely have used the driveway in the past and could use it in the future. In my judgement, use of the driveway in connection with the construction of the appeal development would not, given the scale of the proposed development, be likely to harm trees, and no substantive evidence has been advanced by the Council to the contrary.
20. The proposed outdoor kitchen would be built above the basement and the excavation of land would appear to take place beyond falling distance of the closest trees. Therefore, I find no evidential basis that construction of the proposed development would be likely to harm trees, and it would not conflict with the requirements of ELP Policy DM6.

Other considerations

21. The Council found the proposal to be sympathetic and in harmony with the surrounding streetscape, consistent with ELP Policy DM18, insofar as it requires development to respond to the character of a site. It found that it would enhance the character and appearance of the area, consistent with ELP Policy DM2, Policy CS17 of the Elmbridge Core Strategy 2011, and the Design and Character SPD Companion Guide: Home Extensions 2012. However, in my judgement, the existing development, including the conservatory, which is largely finished in a bright white colour, is not visually harmful. Therefore, the scale and extent of the proposal's visual enhancement would be limited and of very modest weight in its favour.
22. The environmental benefits of securing bird and bat boxes as suggested by the Council would be of limited weight in its favour given the small scale of the proposed development. The benefits to the appeal property's occupants, including through enhancing the amount of light reaching the basement and the occupiers' outlook from it, are of limited weight in favour of the appeal proposal.
23. The proposed development would cause no other harms. No third party has raised any objection to the proposal. However, an absence of harm in these respects are neutral factors that do not add weight in favour or against the appeal development.

Green Belt Balance

24. The proposal would be inappropriate development and would harm Green Belt openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Harm to the Green Belt should be given substantial weight. 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. The weight that I have given to those other considerations would not clearly outweigh the totality of the harm to the Green Belt by reason of inappropriateness and loss of openness. Consequently, the very special circumstances necessary to justify the proposed development do not exist, and the proposal conflicts with ELP Policy DM18 and the Framework's Green Belt policies.

Conclusion

26. The appeal proposal would amount to disproportionate additions over and above the size of the original building, and it would have a materially greater impact on the openness of the Green Belt, contrary to ELP Policy DM18. The substantial weight that I accord to the conflict with ELP Policy DM18 is sufficient to bring the proposed development into conflict with the development plan as a whole. Even if I were to agree with the appellants that the Framework's presumption in favour of sustainable development under Paragraph 11.d) applied to the appeal proposal, the conflict with the Framework's policies for protecting the Green Belt would provide a strong reason for refusing the development.
27. I therefore conclude that the appeal proposal conflicts with the development plan as a whole and there are no material considerations of sufficient weight, including the Framework's provisions, to outweigh this finding. Therefore, the appeal is dismissed.

G Sylvester

INSPECTOR