



Appeal Decision

Site visit made on 19 February 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 JUNE 2025

Appeal Ref: APP/K3605/W/24/3353274

Silvermere Lodge, Redhill Road, Cobham, Surrey KT11 1EF

- 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 Alexander Stewart-Clark against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/0897.
 - The development proposed is replacement one and a half storey dwelling.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. The appeal site (the site) is in the Green Belt. A detached dwelling (the previous dwelling) once stood there, but it has been demolished now. On 25 August 2021 permission was granted for a detached single-storey house at the site following the demolition of the (then existing) previous dwelling (the replacement dwelling permission)¹.
3. The main parties disagree over whether the replacement dwelling permission is extant. That is not a matter before me. The planning application resulting in this appeal was for a *'Replacement one and a half storey dwelling'*, amended on the decision notice to *'Detached single-storey house with rooms in roof space, dormer windows and new vehicular access following demolition of existing house'*, a description repeated on the appeal form. Neither description refers to amendments to the replacement dwelling permission, or to extensions or alterations to the dwelling which it approved. The plans before me show the previous dwelling as comprising the existing position. Therefore, the appeal proposal is for a new dwelling in place of the previous dwelling, and I have determined the appeal on that basis.
4. Since the determination of this application a revised National Planning Policy Framework (The Framework) has been published. The main parties have been given the opportunity to comment on any implications for the appeal. I have considered these comments, and the revised Framework in my determination.
5. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme; What is considered by the Inspector should be essentially the same as was considered by the Council and interested parties at the application stage. Any further submissions made during an appeal must be considered in the context of whether they involve a substantial difference or

¹ Application Ref 2020/0836.

fundamental change to the proposal causing unlawful procedural unfairness to anyone involved.

6. The third reason for refusal cites insufficient ecological information to ensure that biodiversity at the site would not be adversely affected. The Council arrived at this conclusion following consultation with Surrey Bat Group, Surrey Wildlife Trust, and Natural England, a process including consideration of an Ecological Impact Assessment (September 2023) by Darwin Ecology, supplied with the application.
7. The appellant has provided a letter dated 29 August 2024 from Darwin Ecology, seeking to add further detail to the original assessment. The Council has supplied observations on this letter but also stressed that external consultees have not reviewed it. I have no evidence that third parties would have expected to do so. To consider the letter in the appeal would prejudice the ability of those parties to contribute to the planning process, and I have determined the appeal without reference to it.

Main Issues

8. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies and, if so, the effect on openness;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on biodiversity; 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

9. The Framework states that development in the Green Belt is inappropriate and, by definition, harmful, unless one of the exceptions listed in paragraphs 154 and 155 apply. These include, at 154(c), the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. Though they have not identified the paragraph directly, it is clearly the appellants case that the appeal proposal benefits from this exception. They have advanced no argument that any of the other exceptions apply.
10. Subsection (a) of Policy DM18 of the Elmbridge Development Management Plan (2015) (the DMP) adheres closely to Framework paragraph 154(c), though it adds support for proposals that would have no materially greater impact on the openness of the Green Belt, defined in respect of site context and local character as well as by using volume, footprint, and height metrics.
11. The appellant has provided a series of calculations and observations arguing the appeal proposal to comprise a proportionate extension to the building approved by the replacement dwelling permission. However, as set out above, the appeal

proposal is to replace the previous dwelling with a new one. How the appeal proposal compares to the replacement dwelling permission is immaterial, save for any bearing it has on the appellants case that very special circumstances exist (a matter I shall address in a subsequent part of this determination). The provisions of paragraph 154(c) and subsection (a) of Policy DM18 are not applicable to the appeal proposal.

12. For these reasons, and in the absence of any argument from the appellant that any exception listed in the Framework save for that at paragraph 154(c) is applicable, I find no evidence that the appeal proposal would be anything other than inappropriate development in the Green Belt which is, by definition, harmful, and contrary to Policy DM18 the DMP and the Framework.

Openness

13. In comparing the appeal proposal to the previous dwelling, the Council describes a minor reduction in footprint from some 144m² to some 140m², a significant increase in volume from some 539m³ to some 702m³, and an increase in height from some 5m to 7m. The appellant has not contested these figures.
14. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The appeal proposal is for a building of significantly greater volume and height than the previous dwelling. As such, it would result in a harmful loss of openness.

Character and appearance

15. The appeal site is at the far end of a sparsely developed, tree-lined road. It sits on a ridge above the A3. Development visible on the approach to the site comprises a mix of equestrian, commercial, and industrial uses and buildings, interspersed with a small number of dwellings.
16. Homes at Bramley View and Bramley Orchard, which sit alongside each other on the approach to the site, are simple and traditional, two-storey dwellings that incorporate gable ends. They share some similar external materials and finishes. These features do not, however, result in any marked uniformity; The houses have different eaves and ridge levels, are different in width and shape, and have openings arranged in different configurations. The detailing is not unusually fine or decorative.
17. Opposite the site is the handsome Foxwarren Cottage, a Grade II listed estate cottage² in which traditional materials have been used to create elaborate and decorative external details. This adds further variation to the somewhat eclectic local built environment, as does Lian Yard, a light industrial area immediately northwest of the site.
18. The appeal proposal is for a simple, traditional dwelling, incorporating gable ends, pitched roofs, and a modest dormer arranged in a chalet-bungalow style. This design approach results in a high proportion of roof within the dwelling, but the chalet-style is a familiar, traditional one, and I find nothing unusual, striking, or objectionable in the form of design itself, and no reason to conclude that it would not amount to a high-quality design. Save for an indication of it at the top of the

² List Entry Number: 1030053

southwest facing gable, the presence of a flat roof section along the main ridge would not be particularly apparent from ground level. The dormer is traditional in design, and would occupy a small proportion of the roofslope, giving it a modest presence.

19. The immediate local setting is sufficiently mixed as to accommodate the appeal proposal, the height of which would not be unusual in the local context. It would be set back from the edge of the site, mitigating its prominence on the corner. The proposal would not harm the character and appearance of the area, and it would comply with Policies DM2 of the DMP and CS17 of the Core Strategy (2011) (the CS), and with the National Design Guide. These address local character and design.

Biodiversity

20. Policies CS15 and DM21 of the CS and DMP set biodiversity requirements for development. It is not stated in the policies that an assessment of existing, baseline biodiversity must be provided at the initial application stage. To my mind, there will inevitably be instances where biodiversity at a particular site is so modest that the potential for a proposed development to meet policy requirements could reasonably be presumed in the absence of such an assessment. By the same token, there will inevitably be instances where site circumstances require a thorough biodiversity assessment at the outset in order for the possibility of compliance with policies to be established, or so that any specific mitigation measures, proposed as part of a development, can be adequately assessed.
21. The Council considers the appeal site to have, or to have had, biodiversity potential, including in relation to bat roosts, nesting birds, dormice, and badgers. It also considers the Ecological Impact Assessment (September 2023) by Darwin Ecology (the assessment), which was supplied with the application, to be inadequate because, amongst other things, it did not address the biodiversity potential of a detached outbuilding at the site, or the likelihood of hazel dormice or badgers.
22. The appellant has advanced no argument that site conditions render a detailed biodiversity assessment inappropriate, or that the supplied assessment did not fail in the ways the Council says. Instead, they essentially seek to address these concerns using two sources; the August 2024 letter from Darwin Ecology, and information supplied as part of the replacement dwelling permission.
23. For reasons set out above, I have not considered the August 2024 letter as part of my determination. I cannot form a view as to whether information supplied as part of the replacement dwelling permission may be sufficient to satisfy the requirements of Policies CS15 and DM21 in respect of the appeal proposal, as that information has not formed part of this proposal. In such circumstances I cannot form any view other than insufficient information has been provided to show that biodiversity would not be negatively affected by the appeal proposal, contrary to Policies CS15 and DM21 of the CS and DMP.

Other considerations

24. The appellant considers very special circumstances exist, sufficient to justify approval of the proposed development which, for the reasons set out above, I have found to be inappropriate in the Green Belt. Foremost amongst these is the replacement dwelling permission.
25. Even if that permission is extant, it is for a smaller building. No argument is advanced as to how the prospect of its construction makes the creation of a larger building, as proposed in the appeal, any less inappropriate in the Green Belt, or any less harmful to openness. I do not consider the prospect to weigh in favour of the appeal proposal.
26. I recognise that the appeal proposal would increase the internal floorspace at the site to the benefits of its occupants, but that does not alter the fact that it would be inappropriate.

Other Matters

27. The Council does not consider the appeal proposal harmful to the setting of the Grade II listed Foxwarren Cottage. Having had regard to the statutory duty referred to in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, given the separation distance between the appeal site and the cottage, the presence therein of boundary treatments and Redhill Road, I see no reason to take a different view.

Green Belt Balance and Conclusion

28. The proposal would constitute inappropriate development in the Green Belt and would harm openness. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight, and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. The other considerations in this case are not sufficient to comprise the very special circumstances necessary to justify this development, which is contrary to Policy DM18 the DMP and the Framework, where they seek to protect the Green Belt.
29. Whilst I have found the proposed development would not harm the character and appearance of the area, it nevertheless conflicts with the development plan overall, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Knight

INSPECTOR