



Appeal Decision

Site visit made on 10 September 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd of October 2025

Appeal Ref: APP/K3605/D/25/3369022

31 Blackhills, Esher, Surrey KT10 9JP

- 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 Haidar Hussain against the decision of Elmbridge Borough Council.
 - The application Ref is 2025/1082.
 - The development proposed is rear, side and roof extensions.
-

Decision

1. The appeal is allowed and planning permission is granted for rear, side and roof extensions at 31 Blackhills, Esher, KT10 9JP in accordance with the terms of application Ref 2025/1082, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - Whether the proposal would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt; 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

3. The appeal site includes a detached dwelling (the dwelling), which the appellant proposes to extend. The site is in the Green Belt. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that development in the Green Belt is inappropriate unless a listed exception applies.
4. One such exception, at paragraph 154(c), 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. The Framework does not define 'disproportionate additions', leaving whether any particular proposal would amount to one as a matter of planning judgement.

5. Subsection (a) of Policy DM18 of the Elmbridge Development Management Plan (2015) (the DMP) adheres closely to Framework paragraph 154(c) whilst also supporting proposals that would have no materially greater impact on the openness of the Green Belt. In this respect, the policy refers to site context and local character and does not support proposals that would result in an increase beyond 25% in volume and 25% in footprint, or which would materially increase the height of the building. I have been presented with no argument that this approach is inconsistent with that of the Framework and see no reason to view it as being so.
6. The dwelling originally had a footprint of some 171m². Subsequent extensions have added some 17m², creating a volume of some 1035m³. The appeal scheme would increase the footprint by a further 90m², adding some 405m³ in volume. The appellant does not contest the Council's assessment that even when the existing, rather than original, footprint and volume of the dwelling are used as the base for calculations, the appeal scheme would increase the former by some 48% and the latter by some 39%. These are significant increases in both respects.
7. I recognise that many neighbouring homes are larger than the dwelling. I have little evidence, however, that those which appear to have been extended by more than 25% of their original form were approved under the same or similar national or local policies as those effective today. Where extensions to neighbouring houses have been approved more recently, I have little to show me that those houses were increased by more than 25%. Though I will return to the issue in my assessment of openness, for the purposes of assessing the proportionality of the appeal scheme the size of neighbouring houses carries little weight.
8. Given the significant extent to which the appeal scheme would enlarge the original dwelling in terms of footprint and volume, including as a percentage, I find that the proposed development would result in a disproportionate addition over and above the size of the original building. It would be inappropriate development in the Green Belt, and conflict with Policy DM18 of the DMP and with the Framework.

Openness

9. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The appeal scheme would include additional built form where it did not previously exist and, as such, would have a spatial effect on openness. It would extend the dwelling at first floor level, introducing development to a space which is currently open. It would be visible from, amongst other places, the site entrance and from within the site. It would therefore have a visual effect on openness.
10. Whilst the mature trees which mark the boundaries of the site are not subject to a Tree Preservation Order and, as a result, cannot evidently be relied upon to screen views of the site in future, I am mindful that dense tree coverage is a characteristic of the area generally. This limits the direct visibility of the site from outside of it. The road outside the site is not a through-route, and relatively few people would see the dwelling, as extended by the appeal scheme. The dwelling, if extended by the appeal scheme, would not appear unusually large in the context of neighbouring homes. Whilst, overall, the appeal scheme would result in a harmful loss of Green Belt openness, the context described above is notable, and one I shall return to later in my determination.

Other considerations

11. A certificate of lawfulness¹ has been issued for a series of extensions and alterations to the dwelling, along with the erection of an outbuilding (the lawful scheme). Given the certificate, the possibility of the lawful scheme taking place is greater than theoretical.
12. The appellant informs me that the lawful scheme has been costed, and that it will be implemented if the appeal scheme is not. The Council observes that the two schemes are materially different and contends that, on that basis, the lawful scheme is not a realistic or likely fallback. No other reason is provided to doubt that the lawful scheme may proceed, and I see none for myself.
13. Whilst the two schemes would extend the dwelling in different ways, both ultimately comprise domestic extensions and alterations to enlarge the living space in the dwelling. As such, both may serve as an adequate solution to the same need or desire on the part of the appellant. The differences between the schemes are material but provide very little evident reason to view the lawful scheme as less likely to be built than the appeal scheme.
14. Insofar as the respective effects of the two schemes are concerned, the lawful scheme would add 503m³ of development to the site, over a footprint of some 170m². These are significantly greater than the volume and footprint of the appeal scheme. The appeal scheme includes a first-floor element that, due to its height, would be visually prominent in ways the lawful scheme would not. However, as set out above, the nature of the site and local area would serve to mitigate the visual effects of the appeal scheme to a degree. Overall, the lawful scheme would have a notably greater impact on the openness of the Green Belt than the appeal scheme. I attribute significant weight to the fallback position it provides.

Green Belt Balance

15. The appeal scheme is inappropriate development in the Green Belt and erodes its openness. It is contrary to the aims of the Framework and to DMP Policy DM18. The harmful effects of the lawful scheme, however, would be greater. I have found little reason to view the lawful scheme as less likely to be implemented. Allowing the appeal scheme would prevent the lawful scheme from proceeding and also restrict future development at the site. Overall, I find that the 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.

Conditions

16. Conditions 1 and 2 provide clarity. Condition 3 is required to ensure that the development does not harm the character and appearance of the dwelling or the area.
17. In respect of Condition 4, paragraph 55 of the Framework states that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. In this instance the appeal scheme is only acceptable because it results in a less harmful development than may be achieved using

¹ Application Ref 2025/0061.

permitted development rights. In the absence of a condition restricting such rights, it would be possible for the dwelling to be extended by way of the appeal scheme, and then again subsequently using permitted development rights. That would undermine the rationale of this decision. As such, I find clear justification for the condition. Condition 5 is required to safeguard trees during development.

Conclusion

18. For the reasons given above, the appeal is allowed.

A Knight

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with drawings am234DEL-AR-062-001-R01, am234DFP-AR-061-001-R01, am234DFP-AR-061-003-R01, am234DEL-AR-062-002-R01, am234DSP-AR-900-002-R01 received 12 May 2025; am234DFP-AR-061-002-R01 received 13 May 2025; Site Location Plan, am234DEL-AR-062-201-R01, am234DEL-AR-062-202-R01, am234DFP-AR-061-201-R01, am234DFP-AR-061-202-R01, am234 DFP-AR-061-203-R01, am234DFP-AR-061-204-R01, am234DSC-AR-063 201-R01, am234DSP-AR-900-202-R01 received 12 May 2025; Arboricultural Report and Tree Protection Plan by Andrew Day Arboricultural received 22 April 2025; Flood Risk Assessment received 22 April 2025.
- 3) The external materials of the extensions hereby permitted shall match those used in the existing building/dwelling.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, D, E, and F of Part 1 of Schedule 2 to the Order shall be undertaken.
- 5) All the trees and hedges shown on the landscaping plan and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made.

Schedule Ends