Appeal Decision

Site visit made on 15 May 2012

by J M Trask  BSc(Hons) CEng MICE
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 June 2012

Appeal Ref: APP/Y3615/A/12/2168295
White Cottage, Lower Farm Road, Leatherhead, Surrey KT24 5JL

• 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 Andrew Gibson against the decision of Guildford Borough Council.
• The application Ref 11/P/01011, dated 25 May 2011, was refused by notice dated 26 July 2011.
• The development proposed is to construct a replacement detached dwelling.

Decision

1. The appeal is allowed and planning permission is granted for a replacement detached dwelling at White Cottage, Lower Farm Road, Leatherhead, Surrey KT24 5JL in accordance with the terms of the application, Ref 11/P/01011, dated 25 May 2011, subject to the conditions in the attached schedule.

Main Issues

2. The main issues in this appeal are:
   i) Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
   ii) The effect of the proposal on the openness and the visual amenities of the Green Belt; and
   iii) 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

3. The appeal site lies within the Metropolitan Green Belt, outside a settlement boundary. Saved Policy RE2 in the Guildford Borough Local Plan (2003) reflects the advice in the National Planning Policy Framework (the Framework) (which has replaced Planning Policy Guidance Note 2: Green Belts) and expresses a general presumption against inappropriate development in the Green Belt. The Framework and local plan Policy H6 advise that the replacement of a building or dwelling need not be inappropriate development provided that it is not materially larger than the building or dwelling it replaces among other things. The supporting text to Policy H6 advises that it is not considered desirable to state categorically what maximum size of replacement dwelling outside settlements is permissible. However, some guidance as to the local general
view is available in the form of previous decisions on the matter which I consider below.

4. The appellant and Council agree that the proposed house would have a floor area 29% greater than the existing house and the Council have not disclosed any objection to the proposal on this basis. The height of the proposed house and the depth at ground level would only be slightly greater than that existing, the eaves on the front elevation would be at a low level and the roof would have hipped ends to minimise the bulk. Nevertheless, the house would be about 4m deeper at first floor level.

5. Other planning permissions have been granted recently for replacement dwellings. At Moth Cottage a replacement dwelling, which was equivalent in terms of increase in size to an extension over the garage, has been permitted. The enlarged element would be on the side of the building and so apparent from a wider area than the enlarged element in this case which would be predominantly to the rear. The Council concluded the proposed replacement dwelling would not be materially larger than the one it would replace. On the basis of the evidence before me the proposal at Moth Cottage appears to be similar to the subject of this appeal and sheds some light on the usual interpretation of policy in the area.

6. At High Pines a 43% increase in floor area related to a two storey house that replaced a single storey building. The officer’s report in this case notes recently approved replacement dwellings had uplifts in the region of 40%, and this proposal was deemed to be acceptable.

7. Planning permission has been granted for extensions to other houses in the road. While Policy H9 is relevant to extensions, rather than Policy H6 which applies to replacement dwellings, the key limiting criterion for extension, of “disproportionate addition to the original house”, can give some guidance on the limiting criterion for replacement of “materially larger” as both criteria have the same objectives. With this in mind I have considered those cases put before me to support the contention that the Council’s decision in this case was inconsistent with others made previously.

8. At The Garn a two storey rear extension across the width of the dwelling has been permitted. In this case there was a 93% increase in floor area so the scheme was considered to represent disproportionate addition and to be inappropriate development, although it was allowed, as the Council considered there were very special circumstances.

9. Rustlings has additions of 72% including an extension which has the same roof height as the main dwelling and stretches across the full width of the house. The Council granted planning permission as the scheme was similar to that allowed as permitted development. At Honeypotts the additions comprise 108% of the original dwelling although there was also some demolition and a fallback position which the Council considered outweighed any harm.

10. At Charon extensions amounting to 194% of the original were allowed at appeal but this was because there was also a loss of outbuildings and, as a consequence, a reduced footprint of development and reduced extent of that footprint. Thus the circumstances were substantially different to this appeal.

11. There have also been Appeal Decisions relating to proposed development on this site. In the most recent decision (Ref APP/Y3615/A/11/2149579), the
Inspector found that the proposed dwelling was materially larger than that it would replace and so considered that the proposed replacement dwelling would be inappropriate development. There are differences between that case and this one. Firstly, my colleague states “The Council has not provided any policy guidance with regard to the level at which it considers an increase in floorspace to be materially larger.” While the situation in respect of policy is similar in this case, evidence has been provided to show the Council’s usual approach. Also, the current scheme would be smaller than that considered by my colleague; the depth and height would be less, leading to a lesser mass, bulk and increase in floor area. Other modifications have been made to overcome concerns about other matters referred to by my colleague.

12. Drawing these matters together, generally there are material differences between this case and those that were the subject of other planning permissions, but earlier decisions do show the Council is content with sizeable increases in floor areas and bulk. However, the most pertinent similar cases seem to me to be those at Moth Cottage and High Pines where, while the Council did not draw conclusions in respect of whether these proposals would represent inappropriate development, they did conclude they would not constitute materially larger dwellings. Clearly, consistency in decision making is important, not least in terms of natural justice and to maintain confidence in the planning system. Thus, in my view, while close to the maximum acceptable, it has not been demonstrated that this proposal represents a materially larger dwelling than the one it would replace in the context of the Framework as developed by the local plan and the Council’s application of policy.

13. Thus, the proposal is in accord with the provisions of Policies RE2 and H6 and should not be regarded as inappropriate development in the Green Belt for the purposes of the development plan and the Framework.

Openness and Visual Amenity

14. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; an essential characteristic of Green Belts is their openness. The overall width and depth of the footprint of the building would not be dissimilar to the existing house, the increase in floor area being mostly as a result of infilling the area between the existing rear projections and addition at first floor level. The increased size of the building would only be apparent when seen from the side and, overall, the effect on the openness of the Green Belt would be minimal in this effectively built up residential area. I accept that this is a different conclusion to that reached by my colleague in the previous Appeal Decision for the site but, as explained above, there are material differences between that proposal and this one.

15. I now turn to the visual amenity, or character and appearance, of the Green Belt, which is different to openness. The appeal site is in an area where there are other large houses, set in substantial plots. While the building would be close to the side boundaries, it would be set back in the plot, one side would be single storey and on the other the first floor would be set in from the ground floor side wall. Thus it does not seem to me that the proposed dwelling would over dominate the plot and it would not have any significant effect on the character and appearance or visual amenity of the area or the Green Belt. In the most recent Appeal Decision concerning the previous proposal on the site, my colleague reached a similar conclusion that there would be no noticeable harm to the visual amenity of the Green Belt.
Other Considerations

16. I have concluded the proposal would not be inappropriate development, and the issue of very special circumstances does not arise. However, other matters have been raised. The Parish Council is concerned the proposal is a prelude to future expansion and the unusual roof form could accommodate further extension. However, this matter can be controlled by the imposition of a suitable condition.

17. The proposed house would be a more efficient use of land than the existing development and would be more energy efficient. These are significant benefits. While satisfactory, it does not seem to me that the appearance of the property would be greatly improved by the replacement dwelling and, although the building would be in a reasonably sustainable location, would not detract from the living conditions of neighbours and is well designed, these are not benefits but are absences of harm and are therefore neutral matters.

Conclusions

18. Having taken local circumstances into account I conclude the proposal would not be inappropriate development, would only have a minimal effect on openness and would not materially detract from the character and appearance of the area or the Green Belt. In my view the minimal harm to openness would be outweighed by the benefits of the scheme. The proposed development would be in accord with the provisions of the development plan. Having regard to paragraphs 214 and 215 of the Framework, I find the development plan policies relevant to my decision to be consistent with the provisions of that document.

Conditions

19. I have considered the conditions suggested by the Council having regard to Circular 11/95 The Use of Conditions in Planning Permissions. Samples of external materials and details of slab levels should be approved by the Council in the interest of the character and appearance of the area. As discussed above, the proposed dwelling would be near the limit of what is acceptable in the Green Belt. It would also be close to neighbouring properties so I shall restrict permitted development rights to protect the openness of the Green Belt, the character and appearance of the area and the living conditions of neighbours. A first floor window in the side elevation has the potential to overlook the private area of the adjacent property and needs to be obscure glazed to prevent overlooking. In accordance with the Council’s Supplementary Planning Guidance on "Sustainable Design and Construction", 2011, provisions should be made to reduce carbon emissions, incorporate sustainable energy and require the achievement of at least Code for Sustainable Homes Level 3 in the interests of sustainability. In addition, otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I shall impose these conditions subject to minor modifications to aid clarity.

20. For the reasons given above I conclude that the appeal should be allowed.

JM Trask

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1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

3) No development shall take place until the slab levels of the building hereby permitted together with existing and proposed ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no enlargement, improvement or other alteration to the dwelling or addition or alteration to its roof permitted by Classes A and B of Part 1 of the Second Schedule of the 1995 Order shall be carried out.

5) Before the first occupation of the building hereby permitted the window at first floor level in the side elevation shall be fitted with obscured glass and fixed shut and shall be permanently retained in that condition.

6) No development shall take place until details of the predicted energy use of the development and the types of low or zero carbon technologies to be used have been submitted to and approved in writing by the local planning authority. These details shall demonstrate how the development will achieve at least a 10% reduction in carbon emissions. Development shall be carried out in accordance with the approved details before the first occupation of the dwelling and maintained and permanently retained thereafter.

7) The dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate and assessment report has been issued for it by an assessor accredited by the Building Research Establishment Limited certifying that Code Level 3 has been achieved.

8) Except in respect of the details required by condition, the development hereby permitted shall be carried out in accordance with the following approved plans: 532/11/A and 523/14A and information received by the Council on 31 May 2011.