
Appeal Decision

Site visit made on 6 December 2016

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th January 2017

Appeal Ref: APP/T0355/W/16/3156065

Honey Lane Farm, Honey Lane, Hurley, Maidenhead SL6 6RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Nick Evans against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/01753, dated 24 May 2016, was approved on 27 July 2016 and planning permission was granted subject to conditions.
 - The development permitted is a single storey rear extension.
 - The condition in dispute is No 4 which states that: *Irrespective of the provisions of Classes A, B and E of part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no enlargement, improvement or any other alteration (including the erection of any ancillary building within the curtilage) of or to any dwellinghouse the subject of this permission shall be carried out without planning permission having first been obtained from the Local Planning Authority.*
 - The reasons given for the condition is: *The site is in the Green Belt and whilst the development subject to this permission complies with the Green Belt policy further development would be unlikely to do so. Relevant Policies – Local Plan GB1, GB2, GB4.*
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Decision

1. The appeal is allowed and the planning permission Ref 16/01753 for a single storey rear extension at Honey Lane Farm, Honey Lane, Hurley, Maidenhead SL6 6RG granted on 27 July 2016 by the Council of the Royal Borough of Windsor and Maidenhead, is varied by deleting condition No 4.

Application for costs

2. An application for costs was made by Mr Nick Evans against the Council of the Royal Borough of Windsor and Maidenhead. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether the condition is reasonable or necessary in the context of the site's location within the Green Belt.

Reasons

4. The condition in question, would mean that planning permission would be required for extensions (including roof extensions) and curtilage outbuildings that otherwise could be constructed as permitted development.
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5. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Government's Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.
6. In the absence of any evidence to the contrary, the existing property is able to utilise its permitted development rights subject to the standard restrictions and conditions set out in the relevant parts of the Town and Country Planning (General Permitted Development) Order 2015 ('the Order'). For extensions to dwellings and ancillary outbuildings, the Order does not impose any specific restrictions on developments located in the Green Belt.
7. Prior approval, pursuant to Class A of Part 1 of Schedule 2 of the Order has been previously granted for a similar extension to that permitted by the planning permission now being considered. The Council's officer report acknowledges that the two extensions would be almost the same. If the 'permitted development' extension were to be implemented rather than the subsequently permitted scheme, the permitted development regulations would remain to be generally applicable to the dwellinghouse.
8. From the evidence before me, the Council have not sought to restrict permitted development rights at the dwellinghouse through any Article 4 Direction. The appellant states that it would be his intention to implement the original scheme should condition 4 remain on the subsequent planning permission. Whilst it maintains a small gap to the existing side wall, I consider there to be a reasonable likelihood of the permitted development scheme being constructed rather than the scheme subsequently granted planning permission. I have therefore given this fall back position significant weight.
9. The Council's reason for imposing the condition refers to the site's location within the Green Belt and states that whilst the approved single storey extension complies with Green Belt policy, further development would be unlikely to do so. From the reason for the imposition of the condition and information provided in the Officer's report, I understand the Council's concern to relate to the potential for further extensions which may result in disproportionate increases in the size of the dwellinghouse in relation to the original, along with additional curtilage buildings.
10. The house has already been extended and there is already a substantially sized outbuilding in the garden. I acknowledge the Council's concern that further development might take place, through permitted development, including both extensions and outbuildings, which could have implications for the openness of the Green Belt. I also note that the Framework requires that substantial weight should be given to any harm to the Green Belt. However, the existing dwellinghouse enjoys permitted development rights.
11. Given the fall back position of the originally proposed extension which would leave the permitted development rights unfettered, I do not consider that exceptional circumstances exist in this case to justify the removal of permitted development rights. I have also taken into consideration that householder permitted development rights have been framed by the Government to *allow householders to improve and extend their homes without the need to seek a*

specific planning permission where that would be out of proportion with the impact of works carried out¹.

12. Although the removal of the condition could result in development contrary to the Green Belt protection aims of policies GB1, GB2 or GB4 of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted in June 2003), I consider that any harm that may result, would be outweighed by the other considerations outlined in my reasoning above, most particularly the fall back position and the existing situation at the dwellinghouse where permitted development rights are intact. I conclude that in this case the exceptional circumstances do not exist to justify the removal of permitted development rights and therefore condition 4 is not reasonable or necessary in the context of the site's location within the Green Belt.
13. For the reasons given above, the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

David Cliff

INSPECTOR

¹ Department for Communities and Local Government – Permitted development for householders Technical Guidance April 2014