

Appeal Decision

Site visit made on 12 June 2016

by C Jack BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 28th June 2017

Appeal Ref: APP/Y3615/W/17/3171429

13 Gravetts Lane, Guildford GU3 3JR

- 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 J Gallagher against the decision of Guildford Borough Council.
 - The application Ref 16/P/00493, dated 7 March 2016, was approved on 24 November 2016 and planning permission was granted subject to conditions.
 - The development permitted is a two storey side extension, demolition of rear conservatory and installation of front and rear velux roof lights.
 - The condition in dispute is No 4 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, D, E and F, shall be carried out on the dwellinghouse(s) hereby permitted or within their curtilage.*
 - The reason given for the condition is: *Having regard to the size of the dwelling approved, the local planning authority wishes to retain control over any future extensions / outbuildings at the property, in order to safeguard the character of the area and the residential amenities of adjoining properties.*
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Decision

1. The appeal is allowed and the planning permission Ref 16/P/00493 for a two storey side extension, demolition of rear conservatory and installation of front and rear velux roof lights at 13 Gravetts Lane, Guildford GU3 3JR granted on 24 November 2016 by Guildford Borough Council, is varied by deleting condition No 4 and substituting for it the following condition:
 - 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 within Schedule 2, Part 1, Classes A, D and E of the Order shall be carried out at the site.

Preliminary Matters

2. The site lies within the Green Belt, outside the defined urban area of Guildford. Planning permission for a two-storey side extension, front and rear roof lights and the removal of a conservatory was granted subject to a number of conditions, including the restriction of the permitted development rights set out in Schedule 2, Part 1, Classes A, D, E and F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). These Classes respectively relate to: A - the enlargement, improvement or other alteration of the house; D - porches; E - buildings etc within the curtilage of the house; and F - hard surfaces within the curtilage of the house. The appellant is essentially of the view that there is no justification or necessity for
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the removal of these rights. Accordingly, the deletion of condition 4 is sought in this appeal.

Main Issue

3. Taking the background above into account, the main issue is whether the condition is necessary and reasonable having regard to local and national policies aimed at safeguarding the openness of the Green Belt.

Reasons

4. 13 Gravetts Lane (No 13) is a two-storey semi-detached house situated in ribbon of similar properties along the appeal-site side of Gravetts Lane. The property lies outside the identified urban area of Guildford and is therefore considered countryside in planning policy terms. The area has a generally rural character, with hedges and fields opposite and behind the site. No 13 is set in a good sized plot, typical of the vicinity, with a parking area at the front and a long rear garden. There is a separate timber workshop building in the rear garden. A former conservatory at the rear of the house, shown on the existing ground floor plan 6043/01C, has now been removed. I saw a variety of domestic extensions and alterations, including two-storey side extensions, sheds, porches, and hard surfaced front parking areas at nearby houses during my visit.
5. National policy relating to the Green Belt is set out in Section 9 of the National Planning Policy Framework 2012 (the Framework). Paragraph 79 sets out that the Government attaches great importance to Green Belts, the fundamental aim of which is to prevent urban sprawl, and the essential characteristics of which are their openness and permanence. Paragraph 87 sets out that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt, other than in relation to the exceptions listed in paragraph 89. One of these exceptions 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'*.
6. Saved Policy H9 of the Guildford Borough Local Plan 2003 relates to extensions to dwellings in the countryside. It is generally consistent with the Framework in setting out that, *'outside the identified settlements and within the Green Belt there will be a presumption against extensions to dwellings which result in disproportionate additions taking into account the size of the original dwelling'*. I am advised by the Council that following a previous refused application, the approved scheme included the removal of the former conservatory and a single storey proposed rear extension from the application plans in order to reduce the overall development, compared to the earlier unacceptable scheme, to make the proposal acceptable in the Green Belt. The Council's report shows that it granted permission on the basis that the development, while representing a 57.83% increase in floor area compared to the original building, would be subservient to the host property and therefore not disproportionate. The Council's figures have not been specifically disputed by the appellant.
7. While neither the Framework or Policy H9 provides a specific definition of disproportionate additions, it seems to me that the Council gave due consideration to this factor in their assessment of the application, and that

without the removal of the conservatory and the proposed single storey rear extension the Council would not have found the development to be acceptable in Green Belt terms.

8. I note that the site is not subject to an Article 4 Direction and I accept that being located in the Green Belt does not, of itself, necessarily constitute the exceptional circumstances necessary to justify the removal of permitted development rights. However, the Green Belt location is an important and relevant factor. I further note that Green Belts are not exempted in the GPDO as some other designations, such as Areas of Outstanding Natural Beauty, are. However, the GPDO should not be viewed in isolation but in the policy context of the Framework, which stresses the importance and weight attached to the Green Belt.
9. Paragraph 200 of the Framework sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance (PPG) further explains 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*¹.
10. The provisions of Classes A and D would have the potential to result in significantly greater cumulative additions to No 13. Particularly when taken together with the extension and alterations for which planning permission has been granted, this would be likely to result in disproportionate additions over and above the size of the original building. Disproportionate additions would represent inappropriate development and therefore harm to the Green Belt.
11. Substantial weight is to be given to any harm to the Green Belt. In this case, I consider that the need to avoid harm to the Green Belt, and the potential for cumulative disproportionate development, amounts to the exceptional circumstances required to justify the restriction of certain permitted development rights here. Therefore, having regard to Section 9 of the Framework and mindful that the essential characteristics of Green Belts are their openness and their permanence, I consider that a condition that has the effect of controlling development which could be inappropriate in the Green Belt and thus detract from its openness, is necessary in this case order to safeguard the Green Belt. Classes A and D relate to potential further enlargements to No 13 and it is therefore clearly justified, reasonable and necessary to restrict these rights in the interests of safeguarding the openness of the Green Belt.
12. The supporting text to Policy H9 sets out that domestic outbuildings are to be considered as an extension to the dwelling for the purposes of the policy. This is because they are not physically attached to the dwelling and so they are likely to have an impact on the openness of the Green Belt. On this basis, and including in combination with the approved development, the provisions of Class E could be detrimental to the openness of the Green Belt and result in disproportionate additions to No 13. The control of development within Class E is therefore also clearly justified, reasonable and necessary in the interests of safeguarding the openness of the Green Belt.

¹ PPG Paragraph 017 Ref ID: 21a-017-20140306

13. The provisions of Class F do not directly relate to the extension of the house and are also not specified to be considered as an extension to the dwelling for the purposes of Policy H9. On the evidence before me, I am therefore not persuaded that such provisions would directly or significantly contribute to development that might result in disproportionate additions to the house. Accordingly, I do not consider that it is justified or reasonable to restrict Class F rights in this case, given that it is not necessary in seeking to avoid disproportionate additions to the house, and given that the provision of incidental hard surfaces within the curtilage of the house is not significantly relevant to the development that has been granted. I am therefore not satisfied that the restriction of Class F meets the tests set out in paragraph 206 of the Framework.
14. In light of the above, I consider that the openness of the Green Belt could be significantly harmed by the exercise of permitted development rights in Classes A, D and E in this case. The restriction by condition of permitted development rights within those Classes is therefore reasonable and necessary in the interests of safeguarding the openness of the Green Belt. However, existing condition 4 is unreasonable in so far as it restricts development within Class F. The existing condition is also imprecise in that it refers to the '*dwellinghouse(s) hereby permitted or within their curtilage*', when the planning permission relates to extensions and alterations to an existing dwelling.
15. I therefore consider that the planning permission should be varied by the deletion of the existing condition No 4 and the imposition of a new, narrower, condition relating to Classes A, D and E only and correcting the imprecise wording. This condition would not necessarily preclude all development within those Classes, rather it would provide an appropriate mechanism through which the Council may assess and control such future development at the site in the interests of the openness of the Green Belt. I am satisfied that the new condition would meet the requirements of paragraph 206 of the Framework.
16. Taking the above factors into account, I conclude that a condition, albeit narrower in scope than the existing condition, that has the effect of controlling development which could be inappropriate in the Green Belt and detract from its openness, is necessary and reasonable.

Other Matters

17. The Council's reasons for imposing the existing condition No 4 also refer to safeguarding the residential amenities of adjoining properties. However, there is no significant evidence before me that the relationship of No 13 with neighbouring properties gives rise to particular concerns in this regard and I am not persuaded that the exceptional circumstances necessary for the removal of national permitted development rights have been demonstrated in this regard. Nevertheless, this does not alter my findings above in respect of the main issue.

Conclusion

18. As I have identified potential significant harm to the openness of the Green Belt, I consider that exceptional circumstances exist and that it is reasonable and necessary for a condition restricting permitted development rights to be imposed, albeit in a modified form.

19. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed and that the planning permission should be varied by the deletion of existing condition No 4 and substituting for it a new condition relating to development within Classes A, D and E of the GPDO, as set out in the formal decision above.

Catherine Jack

INSPECTOR