



Appeal Decision

Site visit made on 18 July 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 9th August 2017

Appeal Ref: APP/L3625/W/17/3170358

48 Meath Green Lane and Greenfields, Greenfields Close, Horley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Sinclair against the decision of Reigate and Banstead Borough Council.
 - The application Ref 16/02870/S73, dated 7 December 2016, was refused by notice dated 2 February 2017.
 - The application sought planning permission for the demolition of outbuilding and replacement with a residential double garage and 1-bed annexe ancillary to no.48 and double garage to no.46. Replacement of a single storey rear extension to no.48 with a single storey rear extension without complying with a condition attached to planning permission Ref 16/01111/F, dated 30 September 2016.
 - 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 and re-enacting that Order with or without modification), no rooflights, dormers and extensions for the outbuilding/annexe that is sited in the curtilage of 46 and 48 shall be constructed and no further development permitted by Class E of Part 1 of the Second Schedule of the 2015 Order, (other than those expressly authorised by this permission).
 - The reason given for the condition is: To control any subsequent enlargements in the interests of the visual and residential amenities of the locality with regard to Reigate and Banstead Borough Local Plan 2005 policies Pc10, Ho9, Ho13, Ho15 and Ho16.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of outbuilding and replacement with a residential garage and 1-bed annexe ancillary to no.48 and double garage to no.46. Replacement of a single storey rear extension to no.48 with a single storey rear extension at 48 Meath Green Lane and Greenfields, Greenfields Close, Horley in accordance with application Ref 16/02870/S73 without compliance with condition number 4 previously imposed on planning permission Ref 16/01111/F, dated 7 December 2016, but subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Ian Sinclair against Reigate and Banstead Borough Council. That application is the subject of a separate Decision.

Procedural Matters and Background

3. Planning permission (the permission) has been granted for the demolition of an outbuilding and its replacement with a garage and a one bedroom annexe ancillary to 48 Meath Green Lane (No 48) and the construction of a double garage for Greenfields, Greenfields Close. The development would also involve the removal of No 48's single storey rear extension and its replacement with a single storey extension.
4. No 48 and Greenfields are the property names appearing in the address section of the permission's First Schedule. However, the description of the development stated in the permission's First Schedule refers to 'No 46', which I take to mean Greenfields. In the banner heading and formal decision above I have used the address that appears on the permission, rather than the version appearing on the form for the appealed application. Hereafter for ease of reference I shall, however, refer to Greenfields as No 46.
5. Condition 4 of the permission precludes: the installation/construction of rooflights, dormers and extensions to the outbuilding subject to the permission (first limb); and the construction of further outbuildings under Class E Permitted Development (PD) rights (second limb).
6. The appealed application states that permission was sought for 'Condition 4 - Removal of the General Permitted Development Order Class E'¹. The Council's officer report, while focusing on the removal of the second limb of condition 4, appears to countenance 'the removal of the condition' in its entirety. Paragraph 1.2 of the appellant's appeal case states that the appeal is for the removal of condition 4 and I have determined the appeal on that basis.

Main Issue

7. The main issue is whether condition 4 is necessary, with particular regard to the effect of the development on the character and appearance of the area and Nos 46 and 48 as locally listed buildings.

Reasons

8. Nos 46 and 48 are a pair of mid nineteenth century, large, semi-detached houses, which have been locally listed by the Council. Nos 46 and 48 are also within a Residential Area of Special Character (RASC) designated by the Council, an area that is characterised by lower density housing.
9. The stated reason for condition 4's imposition being to control '... any subsequent enlargements in the interests of the visual and residential amenities of the locality ...'. However, the reason for condition 4's imposition is not entirely clear, especially having regard to the reason given by the Council in refusing to grant permission for condition 4's removal. The reason for refusal contending that further outbuildings would be harmful to the setting of the locally listed buildings.
10. Although Nos 46 and 48 occupy large plots I consider, in practice, that there would be limited scope for outbuildings, of a scale benefiting from Class E PD rights, to be constructed that would adversely affect the setting of either

¹ Section 5 of the application form

Nos 46 or 48 once the permission has been implemented. That finding is elaborated on below.

11. No 46 occupies a corner plot and given that pedestrian and vehicular access to this property is derived via Greenfields Close, I consider its elevation facing that road (south eastern) should be considered as being its 'principal elevation' for the purposes of Class E. On that basis Class E PD rights would be unavailable for the siting of an outbuilding in advance of No 46's south eastern elevation, ruling out further development in much of this house's grounds.
12. Even if my interpretation of No 46's principal elevation is incorrect, and it should be taken as the one fronting Meath Green Lane, the likelihood of siting an outbuilding of a size that could be construed as being harmful to the setting of Nos 46 and 48 would be limited. That is because any such building would be likely to encroach onto the 'horseshoe' drive that would provide access to No 46's replacement garage, negating the benefits of having that garage.
13. With respect to No 48 I consider that, in practical terms, there would be limited scope to site an outbuilding forward of the annexe of a scale that might detract from the setting of Nos 46 and 48. That is because any such building would be likely to interfere with the access route to the garage attached to the annexe or the outlook from the replacement extension. No 48's plot extends north eastwards of both the existing and replacement outbuildings and that piece of land would be capable of accommodating a comparatively large outbuilding. However, I consider any such building would be incapable of being readily read as part of the setting of Nos 46 and 48 because of the visual screening that would arise from the replacement outbuilding's presence.
14. I am also of the opinion that were the replacement outbuilding to be altered, through the addition of rooflights, dormers or an extension, then those alterations would not be of a scale capable of detracting from the character and appearance of the RASC or the setting of Nos 46 and 48. Given my findings in this respect, I consider nothing turns on whether PD rights would or would not be available to alter the replacement outbuilding.
15. For the reasons given above I conclude that condition 4 is unnecessary and that permission should be granted without its imposition. With condition 4's removal I find there would be no conflict with saved Policies Pc10, Ho9 and Ho15² of the Reigate and Banstead Borough Local Plan of 2005 and Policy CS4 of the Reigate and Banstead Local Plan Core Strategy 2014. That is because the development that might arise in the absence of condition 4 would not be of a scale that would detract from either the spacious character of the RASC or the setting of the locally listed buildings.

Conclusion and Other Conditions

16. For the reasons given above the appeal is allowed and the permission is varied by the removal of condition 4.

² As opposed to Policy Pc15 which the Council has confirmed was erroneously referred to in the reason for refusal because no such policy exists

17. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have re-imposed all those that I consider remain relevant. In the event that some conditions have in fact been discharged, that is a matter which can be addressed by the parties.
18. Section 73(5) states that a permission granted under this section cannot extend the life of the originally granted permission. Accordingly I have amended the wording of the time limit condition so as to require the commencement of the development by no later than 30 September 2019. That date corresponds with the expiry of the originally granted permission.

Grahame Gould

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 30 September 2019.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0400 EX 40 – Existing O.S. Plan, Block Plan and Photos for Planning; 0400 EX 41 – Existing Ground and First Floor Plans for Planning; 0400 EX 42 – Existing Elevations for Planning; 0400 PL 40 Revision C - Proposed O.S. Plan and Block Plan for Planning; 0400 PL 41 Revision C - Proposed Ground and First Floor Plans for Planning; and 0400 PL 42 Revision C - Proposed Elevations for Planning.
- 3) The proposed annexe hereby permitted shall not be occupied at any time other than for the purposes ancillary to the residential use of 48 Meath Green Lane.
- 4) Notwithstanding the drawings, the proposed external finishing materials and details shall be carried out using the external facing materials and details specified below and there shall be no variation:
 - a) All tiles shall be of Wealden handmade sandfaced plain clay tiles, including 5 rows of fishscale tiles to 5 rows of plain tiles for the house extension.
 - b) All external joinery shall be of painted timber with architraved bargeboards with no box ends, to match all existing profiles.
 - c) All windows shall be white painted timber casement windows with projecting mullions, transoms and outer frames, all set back behind the reveal at one brick depth, with casements in each opening to ensure equal sightlines and gauged brick arches.
 - d) All eaves shall have open rafter feet with no fascia board.
 - e) All rainwater goods shall be of black painted cast metal or black plastic cast metal profile.

- f) All brickwork shall be of handmade sandfaced clay brick of red stocks with burnt headers in Flemish bond, all to match the original Victorian brick size and colour.
- 5) No development shall commence, including groundworks or demolition, until a detailed Tree Protection Plan (TPP) has been submitted to and approved in writing by the local planning authority. The TPP shall contain details of the specification and location of tree protection (barriers and/or ground protection) and any construction activity that may take place within the protected root areas of trees/hedges shown, where retained on the TPP. The tree protection measures shall be installed prior to any development works and shall remain in place for the duration of all construction works. The tree protection barriers/ground protection shall only be removed on the completion of all construction activity, including hard landscaping. All works shall be carried out in strict accordance with the approved details.