
Appeal Decision

Site visit made on 9 December 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2019

Appeal Ref: APP/Y3615/W/19/3236780

Send Hill Farm, Potters Lane, Send GU23 7JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant subject to conditions of consent, agreement or approval to details required by a condition of an approval.
 - The appeal is made by Mr Russell Elrick against the decision of Guildford Borough Council.
 - The application Ref 19/P/00602, dated 2 April 2019, sought approval of details pursuant to conditions No 2 of a planning permission Ref 18/P/00696 granted on 6 July 2018.
 - The development proposed is reserved matters application pursuant to outline application 18/P/00696 approved on 06/07/18 to consider appearance, landscaping, layout and scale.
 - The condition in dispute is No 8 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting or amending those Orders with or without modification), no enlargements within Part 1, Class A and/or B, or development within Classes E and/or Class F (a) (new hardstanding) shall be carried out on the dwellinghouse (dw1) hereby permitted or within its curtilage and no erection or enlargements within Part 7, Class H or development within Part 7 Class J(a) (new hard standing) shall be carried out on the joinery workshop permitted under outline application 18/P/00696 or within its curtilage.
 - The reason given for the condition is: Having regard to the extent of the proposed works and its Green Belt location, the local planning authority wishes to retain control over any future extensions / outbuildings / hardsurfacing at the property, in order to safeguard the openness of the Green belt.
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Decision

1. The appeal is allowed and the approval Ref 19/P/00602 given to the details pursuant to conditions Nos 2 of a planning permission Ref 18/P/00696 given on 2 April 2019 is varied by deleting condition 8 and substituting for it the following condition:
 - 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting or amending those Orders with or without modification), no enlargements within Part 1, Class A or B, or development within Class E shall be carried out at the dwellinghouse (dw1) hereby permitted or within its curtilage.

Application for costs

2. An application for costs was made by Mr Russell Elrick against Guildford Borough Council. A further application for costs was made by Guildford Borough Council against Mr Russell Elrick. These applications are the subject of separate Decisions.

Background and Main Issue

3. Outline planning permission with all matters reserved save for access, was granted for a development in the Green Belt and outside any defined settlement boundary¹. It included the demolition of existing buildings and areas of hard standing, the erection of a replacement dwelling and replacement workshop, together with three new dwellings. Conditions imposed by the Council limiting the size of the proposed buildings and removing certain permitted development rights from the proposed dwellings were removed following an appeal².
4. A reserved matters approval³ and separate planning permission⁴ has been granted for 3 new dwellings on the part of the site not included in this appeal. A condition removing certain permitted development rights from the dwellings was imposed.
5. A subsequent outline planning permission was granted for the same nature of development as the earlier one with all matters reserved except access and included the details of the replacement workshop⁵. There was a further appeal at the site against several conditions imposed, including one restricting the use of the workshop⁶. The current appeal relates to the imposition of a condition on a reserved matters approval to the latest outline planning permission. The condition removed certain permitted development rights from Dwelling 1 and the workshop.
6. The main issue of the appeal is whether the condition is necessary and reasonable, having regard to the effect that varying or removing it would have on whether the proposal would be inappropriate development in the Green Belt.

Reasons

7. The National Planning Policy Framework (Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It outlines that the construction of new buildings, other than in connection with a small number of exceptions set out in paragraphs 145 and 146, should be regarded as inappropriate in the Green Belt. Inappropriate development according to the Framework is harmful to the Green Belt and should not be approved except in very special circumstances.
8. One of the exceptions is the limited infilling or the partial or complete redevelopment of previously developed sites. This is providing the proposed development would not have a greater impact on the openness of the Green

¹ 17/P/00157

² APP/Y3615/W/17/3186911

³ 18/P/00065

⁴ 18/P/00375

⁵ 18/P/00696

⁶ APP/Y3615/W/18/3208075

- Belt than the existing development. From the evidence before me the outline planning permission this reserved matters approval related to was considered under this exception.
9. Policy P2 of the Guildford borough Local Plan: Strategy and Sites (LP) relates to Green Belt development. It does not make specific reference to the removal of permitted development rights. Nevertheless, it states that certain forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it and refers to those listed in the Framework.
 10. Other than access, all other matters were to be considered for Dwelling 1 as part of the reserved matters submission subject to this appeal. On an earlier appeal at the site the Inspector⁷ commented that whether to apply a condition restricting permitted development rights should be considered at the reserved matters stage, when scale and layout become definitive. I see no reason to differ from that view.
 11. Approximate figures for the footprint, floor area and volume of buildings and area of hardstanding are given in the officer report. These compare the proposed and approved development at land covered by the outline permission with the position beforehand. The appellant has not provided any detailed figures to dispute these. In the absence of any compelling evidence to the contrary I see no reason to consider these figures to be inaccurate.
 12. The combined footprint of dwelling 1, the workshop and the other 3 dwellings on the wider site would be somewhat less than when the outline applications were considered. Nonetheless, the floor area across the site would be greater than the original circumstances. In addition, the cumulative volume is only marginally lower.
 13. National guidance does not seek the removal of permitted development rights as a matter of course for Green Belt development. Nevertheless, the acceptability of the outline permission relied on the demolition of buildings and that the proposal would not lead to greater impacts on the openness of the Green Belt. To allow for their replacement by additional new buildings or the enlargement of the dwelling without control would run contrary to this.
 14. Without restrictions on the permitted development of the dwelling there could be sizable additions to it that would be likely to impact on the openness of the Green Belt under Class A of Schedule 2, Part 1 of the GPDO⁸. This could include an extension or enlargement of the property up to 50% of the total area of the curtilage (excluding the ground area of the original dwelling house). While there are some restrictions, significant extensions could be built. By virtue of the increased mass, volume and bulk of these, they could reduce the openness of the Green Belt. Therefore, this element of the disputed condition should remain.
 15. Class B of Schedule 2, Part 1 of the GPDO relates to roof extensions. Again, there are certain restrictions. Notwithstanding this, the resultant increase in volume, mass and bulk of a roof enlargement could affect the openness of the Green Belt. Consequently, this element of the disputed condition should remain.

⁷ APP/Y3615/W/17/3186911

⁸ The Town and Country Planning (General Permitted Development) (England) Order 2015

16. There are limitations on the location and scale of buildings that could be constructed under Class E of Schedule 2, Part 1 of the GPDO. However, development could be carried out up to 50% of the total area of the curtilage, subject to other restrictions. While I note the size of the garden area and the orientation of the dwelling, it has not been demonstrated that this would prevent outbuildings being built under this Class. This could reduce the openness of the Green Belt. Therefore, this element of the disputed condition should remain.
17. Development under Class F of Schedule 2, Part 1 of the GPDO concerns hard surfaces. Such works are likely to be low level. Moreover, domestic paraphernalia and vehicles could be positioned within the curtilage of the dwelling on other surfaces even if permitted development under this class was removed. Permitted development which could be carried out within the scope of this Class would only have a very limited effect on the openness of the Green Belt. While terracing and gardens may have been introduced, I would concur with the officer report that as a whole the proposal would result in a general reduction in hardstanding across the site. Consequently, the removal of this class of permitted development would not meet the exceptional test.
18. I note that the Council has the same intention of protecting the Green Belt by seeking to prevent the effect of extensions, alterations and additional hardstanding areas associated with the workshop (Class 7 Parts H and J(a) of Schedule 2, Part 1 of the GPDO). However, the officer report relating to the outline permission states that details of the siting, scale and appearance of the workshop were considered at that stage. Therefore, it is not reasonable to now seek to impose conditions removing the permitted development rights of that unit. As above, paraphernalia and parking could take place outside of hardstanding areas without restriction.
19. The deletion of the condition in full would conflict with the requirements of Policy P2 of the LP and the Framework where they refer to the exception of limited infilling or the partial or complete redevelopment of previously developed sites being providing that the development would not have a greater impact on the openness of the Green Belt than the existing development.
20. From the information before me, development under Classes A, B and E of Schedule 2, Part 1 of the GPDO could lead to greater impacts on the openness of the Green Belt than the circumstances on which the outline permission considered. On the basis of the information before me, and the individual merits of this case, the removal of these rights are necessary and reasonable. They would constitute the exceptional circumstances where the Planning Practice Guidance states restricting the future use of permitted development rights is necessary.
21. Restrictions on hard surfaces at the dwelling and workshop as well as on the enlargement of the workshop are not reasonable or necessary. Therefore, these elements are removed.
22. I have considered other conditions attached to the permission but there is no substantive evidence before me that leads me to conclude that it is necessary to vary any of these.

Other Matters

23. The appellant has referred to permitted development rights being removed as a matter of routine by the Council. I am also aware of potential alterations and extensions at the site having been discussed by the parties. Nonetheless, I do not have full details of these. In any event, I have assessed the appeal on its own individual merits.
24. Previous appeals at the site removed conditions restricting permitted development. However, these related to outline planning permission where matters of scale and layout were not considered or the use of the workshop. Therefore, they are materially different to the appeal before me.
25. The merits of any enforcement action or future proposal at the site along with the status of the previous outline permission and the conduct of the parties are not matters for this appeal.

Conclusion

26. For the reason given above, and having taken into consideration all other matters, I conclude that the appeal should be allowed and condition 8 should be varied as set out above.

Stuart Willis

INSPECTOR