



Appeal Decision

Site visit made on 17 December 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2020

Appeal Ref: APP/N0410/W/19/3238059

Rosebrook, Ashmead Lane, Denham, Buckinghamshire UB9 5BB

- 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 Paul Innes against the decision of South Bucks District Council.
 - The application Ref PL/19/0550/FA, dated 19 February 2019, was approved on 17 April 2019 and planning permission was granted subject to conditions.
 - The development permitted is two storey rear extension, extension to front dormer and alterations to fenestration.
 - The condition in dispute is No 5 which states that: Notwithstanding the provisions of Article 3 and Classes A, B & E of Part 1 of Schedule 2 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 enlargement, improvement or other alteration (including the erection of a garage, stable, loosebox or coach-house within the curtilage) of or to Rosebrook dwellinghouse the subject of this permission, shall be carried out nor shall any building or enclosure required for a purpose incidental to the enjoyment of any said dwellinghouse as such be constructed or placed on any part of the land covered by this permission. (SD14A).
 - The reason given for the condition is: The site is located within the Metropolitan Green Belt where strict control over development is necessary in order to maintain the openness of the Green Belt. (Policy GB1 of the South Bucks District Local Plan (adopted March 1999) refers.)
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Decision

1. The appeal is allowed and the planning permission Ref PL/19/0550/FA for two storey rear extension, extension to front dormer and alterations to fenestration at Rosebrook, Ashmead Lane, Denham, Buckinghamshire UB9 5BB granted on 17 April 2019 by South Bucks District Council, is varied by deleting condition No 5.

Procedural Matters

2. The description of development in the header and decision above is taken from the Council's decision notice and is different to that set out on the application and appeal forms. I have used this description to be consistent with the planning permission which is the subject of the appeal. On my site visit I saw that the extensions have been largely completed.

Main Issue

3. The Council indicate the disputed condition is necessary to avoid disproportionate levels of built form that would be detrimental to the openness

of the Green Belt. As such, the main issue is whether the disputed condition is reasonable or necessary having regard to Green Belt policy.

Reasons

4. Whilst stating that new buildings are inappropriate development in the Green Belt, paragraph 145 of the National Planning Policy Framework (the Framework) also defines the extension of a building as being not inappropriate, provided it does not result in disproportionate additions over and above the size of the original. Policies GB1 and GB10 of the South Bucks District Local Plan 1999 (LP) are generally consistent with the Framework in this regard.
5. The Council officer's report on the planning application states the appeal scheme represents a cumulative increase of 52.7% in floorspace. It is recognised that this is more than the 50% figure referred to in the explanation to LP Policy GB10, but as the appeal site lies in a Green Belt settlement the proposed extensions are deemed acceptable under Green Belt policy. The Council's appeal statement provides a different floor space increase figure of 34% but confirms that this is not a disproportionate increase. I agree with the Council that the extensions are not disproportionate additions and so are not inappropriate development in the Green Belt.
6. The Council is concerned permitted development rights would allow further enlargement of Rosebrook that may lead to a loss of openness of the Green Belt. Such a concern relates to the effect of development allowed under permitted development rights rather than to the extensions subject of this appeal. The development approved by the Council is acceptable when assessed against national and local Green Belt planning policies and there is no policy that supports the removal of permitted development rights in these circumstances. Consequently, the condition is not reasonable or necessary to make the appeal scheme acceptable and so it fails to meet all the tests set out at paragraph 55 of the Framework. Also, as no compelling justification for the condition is provided, it is contrary to paragraph 53 of the Framework which is against the restriction of permitted development rights without clear reason.
7. The Council refer to an Inspector's appeal decision¹ that allows an extension subject to a condition removing permitted development rights. However, in that case, the proposal was inappropriate development in the Green Belt and the appellant was willing to forego permitted development rights in order to justify a departure from Green Belt policy. The circumstances are different to this appeal where the extensions are not inappropriate development in the Green Belt and so the other appeal does not affect my view on the main issue.

Conclusion

8. For the above reasons, I conclude the disputed condition is not reasonable or necessary having regard to Green Belt policy. As such, the appeal should succeed and I will vary the planning permission by deleting the disputed condition.

Jonathan Edwards

INSPECTOR

¹ Appeal ref no APP/N0410/D/17/3188866