



Appeal Decision

Site visit made on 8 June 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2020

Appeal Ref: APP/G2245/W/20/3245499

Hollow Trees, Hollow Trees Drive, Leigh TN11 8QA

- 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 Gordon Thomas against the decision of Sevenoaks District Council.
 - The application Ref 19/02733, dated 23 September 2019, was refused by notice dated 6 December 2019.
 - The application sought planning permission for the demolition of existing dwelling and erection of replacement dwelling without complying with conditions 4 and 5 attached to planning permission Ref 05/2308/FUL, dated 4 November 2005.
 - The conditions in dispute are No 4 which states that: 'No extension or external alterations shall be carried out to the dwelling hereby approved, despite the provisions of any Development Order', and No 5 which states that: 'No building or enclosure other than those shown on the approved plans, shall be erected within the curtilage of the dwelling hereby approved, despite the provisions of any Development Order'.
 - The reasons given for the conditions are: 'To prevent inappropriate development in the Green Belt as supported by Policy GB2 of the Sevenoaks District Local Plan'.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission¹ for the host dwelling, 'Hollow Trees', included, amongst others, two conditions, one of which related to the removal of permitted development rights for extensions, external alterations, and another which required that no building or enclosure other than those shown on the approved plans, should be erected within the curtilage of the host dwelling. The Council's statement indicates conditions 4 and 5 of that permission are necessary as unfettered development on the site would likely result in harm to the openness, character and permanence of the Metropolitan Green Belt (the Greenbelt).
3. However, the appellant contends that that if the national *Planning Practice Guidance* document and the *National Planning Policy Framework* (the Framework) had been in existence when the Council made its decision in 2005, it is unlikely that conditions 4 and 5 would have been imposed, and hence should be removed.

¹ SE/05/02308/FUL

4. Taking into account the above factors the main issue is:

- whether conditions 4 and 5 are reasonable or necessary having regard to the site location in the Green Belt.

Reasons

5. The appeal site is located in the Green Belt at the end of Hollow Trees Drive and is surrounded by mature trees and hedges. 'Hollow Trees' is a two-storey dwelling with a detached garage set on a relatively large garden plot, and what appears to be a paddock to the front. 'Hollow Trees' was permitted as a replacement dwelling that was less than 50% larger than the 'original' dwelling, specifically 49.2% larger, which the Council found acceptable in combination with the imposition of conditions 4 and 5 in order to limit the size of the replacement dwelling and other development in the Green Belt.
6. Paragraph 53 of the Framework requires that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. Moreover, Paragraph 55 of the Framework says that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. However, while the absence of conditions 4 and 5 would necessitate a justification to the Council that a future proposal on the appeal site, for example the provision of a two-storey dwelling, would not represent inappropriate development that would materially harm the openness of the Green Belt unless very special circumstances existed, the fact remains that permitted development rights have not been withdrawn, in total or in part, in the Green Belt as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015.
7. As such, I conclude that conditions 4 and 5 are reasonable and necessary as set out in Paragraph 55 of the Framework as a further increase in the built form, whether to extend or alter the host dwelling or for a building or enclosure within the 'curtilage' of 'Hollow Trees', that is already 49.2% larger than the 'original' dwelling is likely to erode the openness and permanence of the Green Belt. Therefore, the proposal is contrary to Policies GB1, GB3 and GB4 of the Sevenoaks District Allocations and Development Management Plan Development Plan Document 2015 which say, amongst other things, that proposals should not, by virtue of design and volume, materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion, and Paragraph 145 (c) of the Framework which says that the extension or alteration of a building should not result in disproportionate additions over and above the size of the original building.

Conclusions

8. Conditions 4 and 5 should be retained in their current form as they are necessary and relevant to planning and the permission granted. I therefore conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR