



Appeal Decision

Site visit made on 16 June 2020 by Thomas Courtney BA(Hons) MA

Decision by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2020

Appeal Ref: APP/H1515/W/19/3242789

75 Peartree Lane, Doddinghurst CM15 0RJ

- 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 & Mrs Martin against the decision of Brentwood Borough Council.
 - The application Ref 19/00893/FUL, dated 21 June 2019, was approved on 16 August 2019 and planning permission was granted subject to conditions.
 - The development permitted is the retention of existing dwelling, detached ancillary playroom and garden store.
 - The condition in dispute is No 2 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), the dwelling hereby permitted shall not be extended or enlarged in any way without the prior grant of specific planning permission by the local planning authority.*
 - The reason given for the condition is: *To prevent the creation of a dwelling of disproportionate size that would conflict with the policies of restraint within the Green Belt.*
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Decision

1. The appeal is allowed and planning permission Ref 19/00893/FUL for the retention of existing dwelling, detached ancillary playroom and garden store at 75 Peartree Lane, Doddinghurst CM15 0RJ granted on 16 August 2019 by Brentwood Borough Council is varied by deleting condition 2.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue in this case is the effect of removing the disputed condition on the Green Belt.

Reasons for the Recommendation

4. The appeal property lies within a large plot in the Green Belt, accessed via Peartree Lane. It is a single storey timber dwelling setback from the street and surrounded by open meadow and copses of trees. The boundaries of the site are mostly well-screened with mature vegetation. A single storey playhouse lies in very close proximity to the main dwelling, abutting the common boundary with the neighbouring property to the west known as Tudor Lodge. In addition,

I observed a single storey outbuilding constructed to the north of the appeal dwelling used to store garden equipment.

5. It is necessary to consider whether the disputed planning condition meets the guidance for planning conditions set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The condition in dispute effectively removes Class A, Part 1, Schedule 2 permitted development rights as are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) which relates to the enlargement, improvement or other alteration of a house.
6. The Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness and necessity. The NPPF indicates that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
7. The Council states that the condition is necessary to prevent the erection of disproportionate extensions to the existing dwelling suggesting that the cumulative effect of the extensions afforded via the permitted development process could add up to approximately 80% additional volume to the dwelling. The Council contends this would represent inappropriate development in the Green Belt and would be detrimental to its openness.
8. Paragraph 145 of the NPPF states that new buildings are inappropriate in the Green Belt, but one exception 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. The NPPF makes it clear that inappropriate development is harmful to the Green Belt and also identifies openness as one of the Green Belt's essential characteristics.
9. Whilst the Council assert that it is not unusual or unreasonable practice to withdraw permitted development rights on approved dwellings in the Green Belt, I find that, in this instance, it would be overly cautious and restrictive. Green Belt policy does not require proposals that would be permitted development to be assessed against whether they are inappropriate or not nor is it necessary to assess their impact on openness. Also, the GPDO does not impose any specific restrictions on land in the Green Belt. I therefore see no justification for withdrawing permitted development rights solely on the basis of the potential impact on the Green Belt. Due to the small size of the existing dwelling, any development that fell within permitted development tolerances would also be modest in size and any larger development that was of a scale or nature not to fall within permitted development rights would be subject to assessment under planning policy.
10. In addition, I note the Council implies that a larger dwelling resulting from permitted development would fail to positively respond and contribute to the features of the site and surrounding context. Nonetheless, due to the relatively modest scale of any potential extensions relative to the size of the plot and the secluded position of the house, I am not satisfied that this amounts to clear justification for the removal of Class A permitted development rights.
11. I do not therefore consider that any impact on the Green Belt would amount to sufficient justification that would warrant withholding Class A permitted development rights. I find the disputed planning condition is unnecessary and

conflicts with paragraph 55 of the NPPF which seeks to ensure that planning conditions are only imposed where they are necessary and reasonable. With the condition removed, the development would remain to be in accordance with Policies GB1 and GB2 of the Brentwood Replacement Local Plan (2005) which seek to resist inappropriate development in the Green Belt, and Local Plan policy CP1 which seeks to maintain the character and appearance of the area.

Recommendation

12. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR