



Appeal Decision

Site visit made on 22 September 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: 3 November 2020

Appeal Ref: APP/B5480/W/20/3251168

Four Oaks, The Chase, Upminster, RM14 3YB

- 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 Eamonn Dunlea against the decision of the London Borough of Havering Council.
 - The application Ref P1312.19, dated 21 August 2019, was approved on 21 October 2019 and planning permission was granted subject to conditions.
 - The development permitted is the demolition of existing dwelling to be replaced with 1No. new dwelling.
 - The condition in dispute is No. 4 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 other than porches erected in accordance with the Order, no extension or enlargement (including additions to roofs) shall be made to the dwellinghouse(s) hereby permitted, or any detached building erected, without the express permission in writing of the Local Planning Authority.*
 - The reason given for the condition is: *In the interests of the protection of the Green Belt land from inappropriate development, the visual amenity the conservation area and to enable the Local Planning Authority to retain control over future development, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61 and the advice given in NPPF2019.*
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Decision

1. The appeal is allowed and planning permission Ref P1312.19 for the demolition of existing dwelling to be replaced with 1No. new dwelling at Four Oaks, The Chase, Upminster, RM14 3YB, granted on 21 October 2019 by the London Borough of Havering Council is varied by deleting condition 4.

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 is the effect of removing the disputed condition on the openness of the Green Belt and the character and appearance of the Cranham Conservation Area.

Reasons for the Recommendation

4. The appeal site comprises a large plot in the Green Belt, accessed via The Chase. On my site visit I observed that the original dwelling is yet to be

demolished. It is a double-storey, detached dwelling with integral garage and lies in the north-western corner of the plot, oriented towards the front forecourt area giving access to The Chase. Within the garden to the rear of the house there is an outdoor swimming pool, a large barn-like pitched-roof outbuilding, as well as other smaller outbuildings dotted along the boundary with the adjoining neighbours. The boundaries of the site are mostly well-screened with mature vegetation although the far eastern corner of the plot is slightly more open due to the more modest height of the hedge along the north eastern boundary. In addition, I observed a building nestled within a mound directly to the south of the appeal dwelling. It appears as a form of garage with a timber finished side elevation built within the ground and featuring a grassed roof.

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 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 relate to the enlargement, improvement or other alteration of a house, additions to the roof, and the erection of any other building incidental to the enjoyment of the 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 further erosion of the openness and rural feel of the site and further suburbanisation of the site, against the principle of Green Belt values. It contends the site has already been significantly disfigured, scarred and harmed by development.
8. However, the GPDO does not impose any specific restrictions on land in the Green Belt. Also, Green Belt policy does not require extensions or alterations 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. I therefore see no justification for withdrawing permitted development rights solely on the basis of the potential impact on the Green Belt. Any extensions that fell within permitted development tolerances would be modest in size and would not be in a prominent position or easily visible from the public highway so would be likely to maintain the visual openness of the site. As such, I find that, in this instance, it would be overly cautious and restrictive to remove permitted development rights and I am not satisfied that there is clear justification for it.
9. Regarding the erection of outbuildings, these could be more harmful to the openness of the Green Belt, because of their potential size and spread around the curtilage. Nonetheless, it appears that any such buildings could be presently erected under the existing dwelling's permitted development rights, rendering the control over such development, in the condition, to be ineffective.
10. The Council also states that any alterations to the building could potentially compromise the quality of the design. Again, I am not convinced that concerns

over the architectural integrity and appearance of the dwelling warrant the blanket removal of permitted development rights. Indeed, it is entirely feasible for future alterations and extensions erected through the permitted development process to adequately harmonise with the host dwelling and the wider character and appearance of the Cranham conservation area.

11. Furthermore, my attention was drawn to previous decisions for development at the site. I note that conditions restricting permitted development rights were not imposed on application ref P0358.19 which granted planning permission, in May 2019, for extensions to the existing house, to which the replacement house, subject of this appeal, is comparable in terms of its scale. Nor were such rights removed on the planning permission for a replacement dwelling, approved by the Inspector in April 2020 (ref: APP/B5480/W/19/3231749) except for the formation of flank windows or openings. Though it appears, from the Inspector's decision, that this dwelling would not be exactly the same size as that before me, I agree with the approach taken by the previous Inspector in this regard and consider that imposing permitted development restrictions would be inconsistent.
12. I do not therefore consider that any impact on the Green Belt or the conservation area would amount to sufficient justification that would warrant withholding 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 Policy DC61 of Havering's Development Control Policies Development Plan Document which seeks to ensure proposals are well designed and maintain, enhance or improve the character and appearance of the local area.

Recommendation

13. 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

14. 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