
Appeal Decision

Site visit made on 25 October 2020

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 19 November 2020

Appeal Reference: APP/K6035/W/20/3249198

Land at 'Woodlands', Byfleet Road, Cobham, Surrey KT11 1DS

- 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 A Asanawi against the decision of Elmbridge Borough Council.
 - The application (reference 2020/0018, dated 20 December 2019), was approved on 2 March 2020 and planning permission was granted subject to conditions.
 - The development permitted is: *"two-storey front extensions, first floor side extension, roof extension incorporating front gables, side gables and rear dormer window and alterations to fenestration following partial demolition of house"*.
 - The condition in dispute is condition number 5, which states: *"Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 2015 (as amended - or any Order revoking or re-enacting that Order) no development falling within Part 1 Class(es) A, B, D and E of Schedule 2 to the said Order shall be carried out within the curtilage of the dwellinghouse, unless planning permission is first granted by the Borough Council"*.
 - The reason given for the condition is: *"To control further developments in the interest of maintaining the openness of the Green Belt and to comply with policy DM18 of the Elmbridge Development Management Plan (adopted 2015) and the NPPF"*.
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Decision

1. The appeal is allowed and the planning permission (reference 2020/0018) for "two-storey front extensions, first floor side extension, roof extension incorporating front gables, side gables and rear dormer window and alterations to fenestration following partial demolition of house" at 'Woodlands', Byfleet Road, Cobham, Surrey KT11 1DS, granted on 2 March 2020 by Elmbridge Borough Council, is varied by deleting condition 5 and substituting for it the following condition:

5. Notwithstanding the provisions 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 development falling within Schedule 2, Part 1, Class A of the Order shall be carried out within the curtilage of the dwellinghouse, unless planning permission is first granted by the local planning authority.

Procedural point

2. Planning permission reference 2020/0018 was granted on 2 March 2020 and the appeal is lodged against condition 5 of the planning permission, which the appellant argues should be removed.
3. Section 79 of the Town and Country Planning Act 1990 applies to the appeal, therefore, and I have dealt with it on that basis. Section 79 provides that, "on an appeal under section 78 the Secretary of State may ... reverse or vary any part of the decision of the local planning authority, whether the appeal relates to that part or not".

Main issue

4. The main issue to be determined in this appeal is whether the removal of the disputed condition would be likely to result in development that would adversely affect the openness of the Green Belt.

Reasons

5. Byfleet Road is a busy through route (the A245) between Byfleet and the A3 trunk road (near to its junction with the M25). In the vicinity of the appeal site, the road runs through predominantly rural surroundings, with an area of woodland to the north and residential development along its southern frontage. This residential development is very low density, however, and generally comprises substantial detached houses on large plots with mature gardens that are set with trees.
6. The appeal site is located within the Green Belt and also within an area designated as a "Biodiversity Opportunity Area".
7. The appeal site is, itself, a substantial home, standing in a large plot. The dwellinghouse is set back from the edge of the highway and the front garden is occupied by a number of mature trees, all of which lessens the visual impact of the building on the streetscene and the surrounding area. At the time of the unaccompanied site visit it was evident that extensive building works were in progress, implementing the planning permission that is the subject of this appeal.
8. As noted above, planning permission has been granted for significant extensions and alterations to the original building. Although parts of the then existing house were to be demolished, new extensions would be constructed to its front, side, rear and roof, resulting in a much changed and rather imposing dwellinghouse on the site.
9. The 'National Planning Policy Framework' makes it plain that an extension to an existing building in the Green Belt can be acceptable "provided that it does not result in disproportionate additions over and above the size of the original building".
10. Policies in the 'Elmbridge Core Strategy 2011' and the 'Development Management Plan 2015' reflect the national policy relating to proposed development in Green Belts and Policy DM18 of the 'Development Management Plan 2015' is particularly relevant to this appeal. It provides that extensions and alterations to a building will be permitted, provided that they do not result

in disproportionate additions over and above the size of the original building either individually or cumulatively. Although this policy predates the most recent version of the 'National Planning Policy Framework', it adopts the same general approach to this type of development in the Green Belt.

11. The officer's report that resulted in the grant of planning permission considered the scale of the proposed extensions and the impact of the finished scheme on the Green Belt and it was decided that planning permission could properly be granted in accordance with these policies. It was emphasised that Policy DM18 includes some specific criteria in relation to extensions to existing buildings, although I consider that it is also necessary to take a broad view of the impact of proposed development on the openness of the Green Belt. Nevertheless, I have no reason to disagree in principle with the grant of planning permission in this case.
12. Condition number 5 of the planning permission removed certain permitted development rights in respect of the completed development, as noted above. Specifically, the condition relates to various classes of development that are set out in Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015: Classes A, B, D and E. Class A concerns the enlargement improvement or other alteration of a dwellinghouse; Class B, additions etc to the roof of a dwellinghouse; Class D, porches; and Class E, buildings etc incidental to the enjoyment of a dwellinghouse. The appellant seeks the deletion of this condition in its entirety and it is necessary for me to consider it afresh.
13. The 'National Planning Policy Framework' includes a general statement relating to the use of planning conditions, providing 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" (paragraph 55). Specifically in relation to permitted development rights, it explains that "planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so" (paragraph 53).
14. In this case, the planning permission that has been granted took account of the scale of the "original" building and subsequent additions, in the context of local and national Green Belt policies. Thus, the planning permission that was granted had regard to planning policies that allowed for some extension to the original building, resulting in a substantial and imposing new house.
15. Further extensions would breach the relevant planning policies, however, and the exercise of permitted development rights could allow the construction of new extensions, which could be added where they would recently have been removed. In this particular case, therefore, the implementation of permitted development rights that would allow further extensions to the house, beyond what has now been permitted, would be likely to result in an undesirable impact on the openness of the Green Belt. This restriction was necessary and reasonable, therefore, and it ought not to be lifted.
16. The same considerations do not apply to the other restrictions that were imposed, however. Additions to the roof or the construction of a relatively small porch, by the exercise of permitted development rights, would have only

a very minor impact on the openness of the Green Belt (or the appearance of the surroundings), while, in any case, the permitted development regime applies to properties in Green Belts in principle. Similarly, the legislation does not remove permitted development rights in Green Belts for different types of outbuildings or other structures that are incidental to the enjoyment of a dwellinghouse.

17. It follows that these further restrictions would not be reasonable in the circumstances of this case and that they ought not to be imposed. Therefore, it is reasonable and sensible in this appeal for the disputed condition to be varied, by deleting the condition in its entirety and replacing it with a modified condition (for the sake of clarity), to reflect these conclusions.
18. In reaching this decision, I have taken account of various other cases that have been referred to in the submissions, since I am conscious that Green Belt policies have a wide application and that they need to be interpreted consistently. I have, nevertheless, considered this development on its own merits and I have taken account of the scope of the current project and the scale of previous extensions to the original house. I am convinced that the re-imposition of a varied condition in this case is in accordance with the 'National Planning Policy Framework' and that it is clearly justified in all the circumstances.
19. The planning permission that was granted by the Council remains in force, subject to this variation, and the remaining conditions (which are not contentious) continue to apply, of course.

Roger C Shrimplin

INSPECTOR