



Appeal Decision

Site Visit made on 15 February 2021

by Mr Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2021

Appeal Ref: APP/T0355/W/20/3258417

Brackenwood, Grubwood Lane, Cookham, Maidenhead SL6 9UD

- 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 Fawell against the decision of Royal Borough of Windsor and Maidenhead.
- The application Ref 20/00501, dated 24 February 2020, was approved on 30 June 2020 and planning permission was granted subject to conditions.
- The development permitted is single storey rear extension with canopy and chimney, raised patio area, retaining wall and a canopy to the side elevation.
- The conditions in dispute are Nos 3 and 4 which state that:
(3) 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 the 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.
(4) No development shall take place until any extensions, buildings and/or enclosures constructed under 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 (as amended or any Order revoking and re-enacting that Order with or without modification) following the granting of this permission and prior to the commencement of works the subject of this permission, have been removed or demolished in their entirety. All materials resulting from such removal/demolition shall be removed from the site by the substantial completion or occupation of the development hereby permitted, whichever is the sooner.
- The reason given for the conditions is:
(3 and 4) 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.
Relevant Policies – Local Plan GB1, GB2, GB4.

Decision

1. The appeal is allowed and the planning permission Ref 20/00501 for a single storey rear extension with canopy and chimney, raised patio area, retaining wall and a canopy to the side elevation at Brackenwood, Grubwood Lane, Cookham, Maidenhead SL6 9UD granted on 30 June 2020 by the Royal Borough of Windsor and Maidenhead, is varied by deleting Conditions 3 and 4.

Preliminary Matter

2. The emerging Borough Local Plan 2013-2033 (Submission Version, 2017) (the EBLP) has reached examination stage. However, it is my understanding that the examination process is continuing. Given that the content of its policies

may yet change prior to formal adoption, the EBLP is at a stage that attracts limited weight. I shall consider the appeal on this basis.

Main Issue

3. Whether or not the disputed conditions are reasonable and necessary in the interests of maintaining the Green Belt's openness.

Reasons

4. The disputed conditions were applied in the interests of ensuring that the Green Belt's openness would not be compromised through the future utilisation of permitted development rights to further enlarge, improve or alter the dwellinghouse, including via the erection of incidental outbuildings.
5. The National Planning Policy Framework (February 2019) (the Framework) sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Indeed, the Planning Practice Guidance indicates that a blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
6. In this case, the Council identified that the proposed works, which upon inspection I observed to be substantially complete, would represent disproportionate additions over and above the size of the original dwelling. The relevant exception to new buildings/extensions being regarded as inappropriate development in the Green Belt was thus not met. Based upon the floorspace measurements/percentages that appear before me, I am satisfied that the correct conclusion was drawn in this sense.
7. However, very special circumstances to justify the proposal were found to exist based upon realistic opportunities that would have prevailed to utilise permitted development rights to construct an additional patio area and (a) detached outbuilding(s) with larger ground coverage when compared to the scheme put forward for determination.
8. Single storey development of limited scale was granted planning permission in June 2020 and the permitted additions appear as minor and subservient in the context of the appeal property taken as a whole. The rear extension had, in a similar guise, already been the subject of separate planning permission and, in any event, is small-sized. The rear canopy and associated outdoor entertainment area are also modestly sized, and of open design. When factoring in the discreet location of the permitted additions, they have, at most, very limited implications for the Green Belt's openness.
9. It is important to note that permitted development rights had not previously been withdrawn at this site. In this context and when noting the scale of development under consideration, I find that it was not commensurate, in the act of granting planning permission in June 2020, to impose conditions setting out the removal of future side-wide freedoms to carry out domestic alterations and additions. This is even when acknowledging the numerous past extensions to the property that have been permitted/constructed and the manner in which very special circumstances to justify this latest scheme were found to exist.

10. For the above reasons, the disputed conditions were neither reasonable nor necessary in the interests of maintaining the Green Belt's openness. As such, even with Conditions 3 and 4 deleted, there would be satisfactory compliance with saved Policies GB1, GB2 and GB4 of the Royal Borough of Windsor and Maidenhead Local Plan (adopted June 2003) and with the Framework in so far as these policies recognise that the essential characteristics of Green Belts are their openness and their permanence.

Conclusion

11. The appeal is allowed, and I shall vary the planning permission by deleting disputed Conditions 3 and 4.

Andrew Smith

INSPECTOR