



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: 1st March 2021

Appeal Ref: APP/T0355/W/20/3263317

Summer Place, Darlings Lane, Maidenhead SL6 6PB

- 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 Willis and Mrs Marcus against the decision of Royal Borough of Windsor and Maidenhead.
- The application Ref 20/01844/FULL, dated 23 July 2020, was approved on 3 November 2020 and planning permission was granted subject to conditions.
- The development permitted is alteration to roof of existing outbuilding (part retrospective).
- The condition in dispute is No 2 which states that: *Within one month of the date of this decision notice the link that has been constructed between the outbuilding the subject of this application and the main dwelling house shall be demolished in its entirety and all materials resulting from such demolition works shall be removed from the site.*
- The reason given for the condition is: *To prevent the undesirable consolidation of development on the site having regard to its Green Belt location. Relevant Policies – Local Plan GB1, GB2.*

Decision

1. The appeal is allowed and the planning permission Ref 20/01844/FULL for alteration to roof of existing outbuilding (part retrospective) at Summer Place, Darlings Lane, Maidenhead SL6 6PB granted on 3 November 2020 by the Royal Borough of Windsor and Maidenhead, is varied by deleting Condition 2.

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 condition is reasonable and necessary in the interests of seeking to prevent the consolidation of development in the Green Belt.

Reasons

4. The disputed condition relates to a linking building (the link), which I observed to be part-constructed up to eaves level and to be sited between the main dwelling and the ancillary outbuilding (the outbuilding) that is the subject of the planning permission under scrutiny here. The link has been constructed in the Green Belt without planning permission, which is common ground between

the main parties. The Council has sought to secure the link's removal through the imposition of the disputed condition.

5. It is important to note that the description of development that was determined by the Council relates specifically to an alteration to the outbuilding's roof. This is fully consistent with the approved plans¹. Indeed, no reference to the link or depiction of the link appears upon the site plan, floor plan or elevations that were approved. Furthermore, the link, as I experienced it to exist part-constructed, did not connect to the outbuilding's roof.
6. The Council has suggested that the roof alteration, when considered in-combination with the link, would lead to a disproportionate addition to the main dwelling and to a significant impact upon the Green Belt's openness. However, particularly given that the link did not form part of the development proposal put forward for determination, these suggestions are of little relevance to the outcome of this appeal.
7. In the context described above, there was no clear justification for the Council to utilise the disputed condition as a means for seeking to secure the link's removal. Indeed, when again noting the description of development permitted and the content of the approved plans, the disputed condition was not the appropriate mechanism by which to pursue the breach of planning control in question.
8. Contrary to the Council's suggestions otherwise, I am not fully convinced that the disputed condition could accurately be described as either precise or enforceable. This is because the link's position and extent are not confirmed upon the approved plans. In any event, the disputed condition does not directly relate to the development permitted and its imposition was not necessary to make the proposed development acceptable. Indeed, the roof alteration, when considered in isolation, was found by the Council to be acceptable development in the Green Belt and I have no reason to dispute this finding.
9. For the above reasons, the disputed condition is neither reasonable nor necessary in the interests of seeking to prevent the consolidation of development in the Green Belt. As such, even with Condition 2 deleted, there would be satisfactory compliance with saved Policies GB1 and GB2 of the Royal Borough of Windsor and Maidenhead Local Plan (adopted June 2003) and with the National Planning Policy Framework (February 2019) in so far as these policies affirm that inappropriate development is, by definition, harmful to the Green Belt, and recognise that the essential characteristics of Green Belts are their openness and their permanence.

Conclusion

10. The appeal is allowed, and I shall vary the planning permission by deleting disputed Condition 2.

Andrew Smith

INSPECTOR

¹ P301-101; P301-102