



Appeal Decision

Site visit made on 29 June 2021

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 12 July 2021

Appeal Ref: APP/T0355/C/21/3270786

18 Coppermill Road, Wraysbury, Staines TW19 5NT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Linda Zita Webb against an enforcement notice issued by Council of the Royal Borough of Windsor and Maidenhead.
 - The enforcement notice was issued on 5 February 2021.
 - The breach of planning control as alleged in the notice is:
Without planning permission the erection of a single storey rear extension.
 - The requirements of the notice are:
 - i) *Remove the single-storey extension outlined in blue on the attached plan.*
 - ii) *Remove from the land all materials resulting from compliance with step i.*
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is varied by the substitution of the period for compliance of 3 months with one of 6 months. Subject to this variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issues

2. The main issues are:
 - i) whether the development amounts to inappropriate development in the Green Belt;
 - ii) the effect of the development on openness, and
 - iii) whether there are any other considerations sufficient to clearly outweigh the harm caused by inappropriateness and any other harm, so as to amount to very special circumstances to justify the development.

Reasons

Inappropriateness

3. The appeal property is a detached dormer bungalow in a row of similar properties. This property and its immediate neighbours back onto open land bordering the Colne Brook. The site lies within the Metropolitan Green Belt, where Policy GB 4 of the Windsor and Maidenhead Local Plan (LP) says that the

Council will only approve proposals for the extension of an existing dwelling where it would not cause a disproportionate addition over and above the size of the original dwelling. In this case, the extension in question follows previous enlargements of the dwelling, which the Council estimates to amount to over 100% of the original floorspace. This figure has not been disputed and the appellant does not claim that the extension is not a disproportionate addition to the dwelling.

4. The extension is therefore inappropriate development in the Green Belt. The National Planning Policy Framework says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It also says that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.
5. I therefore conclude on the first issue that the development amounts to inappropriate development in the Green Belt, in conflict with LP Policy GB 4.

Openness

6. LP Policy GB 2 provides that permission will not be granted for new development within the Green Belt if, amongst other things, it would have a greater impact on the openness of the green belt or the purposes of including land in it than an existing development on the site.
7. The extension is a modest addition to the already extended dwelling, projecting rearwards into the landscaped garden. It cannot be seen from any public place and private views are limited to those from close neighbours. The dwellings on either side are larger than the appeal dwelling, and both have outbuildings which are further rearward than the appeal extension. Accordingly, there is only a very limited impact on the visual aspect of openness. Even so, as the extension has a physical presence, it reduces the spatial aspect of openness, contrary to the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open.
8. I therefore find that there would be some small harm arising from the loss of openness, and that the development conflicts with LP Policy GB 2.

Other considerations and overall planning balance

9. The requirements of the enforcement notice interfere with the appellant's rights to respect for her family life and her home under Article 8, as well as the right to respect for property, under Article 1 of the First Protocol, which are Convention rights enshrined into UK law by the Human Rights Act 1998. However, these rights are not absolute, and interference may be justified in the public interest. In this case, the planning system exists to regulate the use of land in the public interest, and, in doing so, interferes with a landowner's rights. In this case, upholding national and local planning policy, and the importance of protecting the Green Belt is a matter of legitimate public interest.
10. There are no lesser steps which could be taken to meet the policy objectives, and whilst I recognise that the interference with the appellant's rights would be significant, the burden of complying with the enforcement notice would be necessary and would not be disproportionate.

11. Planning permission has previously been refused for the extension subject of the notice, and an appeal against that refusal was dismissed in a decision dated 24 September 2020 (Ref: APP/T0355/D/20/3246675). The Inspector found that the extension resulted in Green Belt harm both through inappropriateness and through a small loss of openness. I concur with her findings.
12. The appellant has referred me to an appeal decision dated 5 October 2020 (Ref: APP/T0355/D/20/3252691) in respect of a side and rear extension at 6 Coppermill Road, less than 100m from this appeal site. The Inspector decided in that case that the harm caused by inappropriateness was outweighed by the barely perceptible effect on openness, the lack of harm to the character and appearance of the area and on neighbours' living conditions and by the lack of prejudice to the continued achievement of the purposes of the Green Belt or the aims of Green Belt policy. He concluded that very special circumstances to justify the development existed in that case.
13. This case is not entirely similar in that I (and the s.78 appeal Inspector before me) have found harm arising from loss of openness, as well as harm through inappropriateness. Even so, bearing in mind that substantial weight must be given to harm to the Green Belt, that harm can only be outweighed by positive considerations, rather than an absence of harm, and thus to this extent I take a different approach from the previous Inspector's.
14. I recognise the importance of consistency in decision making, but even if I were to attach significant weight to the 6 Coppermill Road decision, it would be insufficient to clearly outweigh the harm to the Green Belt, which must be afforded substantial weight.
15. I have also had regard to the planning history of Coppermill Road, and it is clear that many dwellings are considerably larger than the appellant's property, including the replacement dwellings at 28-30 Coppermill Road, and I note the appellant's contention that in 1945, prior to the designation of the Green Belt, they were all of a similar size. However, there is insufficient evidence for me to conclude that the Council has acted inconsistently in its application of Green Belt policy to an extent which would justify not applying national and local policies to this case.
16. I therefore find that other considerations do not clearly outweigh the harm to the Green Belt through inappropriateness and loss of openness, and the conflict with the development plan policies I have referred to above. I conclude that the development conflicts with the development plan as a whole, that planning permission should be refused, and that the appeal on ground (a) fails.

Appeal on ground (g) – that the period for compliance is unreasonably short

17. The notice provides a compliance period of 3 months; the appellant does not argue that this is an insufficient time to physically carry out the works, and I consider that they could be accomplished in that time. The appellant argues that because of the integral nature of the extension to the overall living accommodation, it would take additional time to plan a suitable re-arrangement and to enable the appellant time to afford the works.
18. Whilst the appellant has known of the requirements of the notice since it was issued in February this year, where an appeal has been made under ground (a), the appellant is entitled to assume that there may be a successful

outcome, and thus the period before the notice takes effect should not be taken into account. However, I attach only limited weight to the appellant's arguments, and I do not consider that a 12 month period would be appropriate in the circumstances. In balancing the importance of Green Belt policy against the appellant's private interests, and bearing in mind that there is no harm caused to neighbours' living conditions or the appearance of the area, I consider that extending the compliance period to 6 months would be reasonable. To this limited extent the appeal on ground (g) succeeds and I shall vary the notice accordingly.

Conclusions

19. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent. The appeal on ground (a) should not succeed and I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

JP Roberts

INSPECTOR