



Appeal Decision

Site Visit made on 22 June 2021

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2021

Appeal Ref: APP/T0355/W/21/3271320

1 Meadow View, Honey Lane, Hurley, Maidenhead SL6 6RG

- 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 Mrs Chantelle Strang against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
- The application Ref 21/00068, dated 11 January 2021, was approved on 11 March 2021 and planning permission was granted subject to conditions.
- The development permitted is new entrance canopy, single storey side/rear extension and alterations to fenestration.
- 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 : 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 21/00068, for new entrance canopy, single storey side/rear extension and alterations to fenestration, at 1 Meadow View, Honey Lane, Hurley, Maidenhead SL6 6RG, granted on 11 March 2021 by the Council of the Royal Borough of Windsor and Maidenhead, is varied by amending Condition 3 and Condition 4 as follows:
 - 3) Notwithstanding the provisions of Class A 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 of the dwelling shall be erected other than those expressly authorised by this permission.

- 4) No above ground works for the extensions hereby permitted shall take place until any extensions constructed under Classes A, 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.

Applications for costs

2. An application for costs was made by Mrs Chantelle Strang against Royal Borough of Windsor and Maidenhead. This application is the subject of a separate Decision.

Preliminary Matters

3. Following the submission of the appeal, the Council have granted permission to vary the disputed conditions¹ so that they only remove rights under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
4. While I saw some excavation had taken place at the site, I cannot be sure that the works accord with the appeal scheme. Therefore, I have dealt with the appeal as a proposed development as shown on the plans.

Main Issue

5. The main issue is whether the disputed conditions are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects in the context of the site's location within the Green Belt.

Reasons

Condition 3

6. The appeal site is located in the Metropolitan Green Belt. The Council granted planning permission, in part, on the basis of very special circumstances of a fallback position under permitted development rights under Class A of Part 1 of Schedule 2 of the GPDO that they considered would be more harmful than the proposed extension.
7. Planning Practice Guidance and the National Planning Policy Framework state that conditions removing permitted development rights rarely pass the test of necessity and require clear justification.
8. Without controls in place, further extensions could take place under permitted development rights. Such enlargements have the potential to take the overall additions to the dwelling beyond the size of those identified in the fallback position. This would lead to a greater reduction to the openness of the Green Belt than the appeal scheme alone.

¹ 21/00870

9. The concerns from the Council appear to relate to the enlargement of the property. Consequently, from the evidence before me it is not necessary for the condition to restrict the 'improvement' or 'other alteration' of the dwelling as I see no basis for this to reduce the openness of the Green Belt. Therefore, the removal of permitted development rights for only enlargements would be justified.
10. The Council have not put forward any clear case for the removal of Class B or Class E rights and a fallback position now exists where these rights have not been removed. It has not been demonstrated that restricting these are necessary or reasonable to make the development acceptable in planning terms.
11. Consequently, the removal of Class B and E rights within condition 3 is not necessary or reasonable. The condition is varied to delete reference to these and specifically refer to enlargements.

Condition 4

12. The requirement of existing extensions, or any further ones erected prior to the construction of the extensions hereby approved under Class A, would prevent additions that could be over and above the fallback position that the Council gave weight to as part of the very special circumstances demonstrated to make the appeal scheme acceptable. As such, the absence of any mechanism to prevent this could lead to a reduction on openness greater than the fallback position. Therefore, as with my reasoning above for condition 3, where it relates to extensions under Class A condition 4 is reasonable and necessary.
13. Although not shown on the submitted plans, ancillary structures are said to be present within the garden of the dwelling and I saw some at my visit. They are not referred to in the officer report and there is no indication that they formed part of the assessment of the acceptability of the scheme.
14. Moreover, there is no clear justification that controlling future development under Class B or Class E would be reasonable or necessary given the Council's concerns relate to extensions to the dwelling. Furthermore, there is now a fallback position of permission with these rights retained. Therefore, these elements of the condition have not been shown to be necessary or reasonable.
15. Whether the conditions fall within the scope of Town and Country Planning (Pre-commencement Conditions) Regulations 2018, any effects on openness from the appeal scheme would not occur until above ground works of the approved extensions were begun. I have altered the condition to reflect this and removed reference to Class B and Class E.

Conclusion

16. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Stuart Willis

INSPECTOR