
Appeal Decision

Site Visit made on 19 July 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2021

Appeal Ref: APP/X0360/W/21/3268021

2 Wakefield Cottages Bath Road, Hare Hatch RG10 9SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Karen Robinson against the decision of Wokingham Borough Council.
 - The application Ref 203257, dated 25 November 2020, was refused by notice dated 13 January 2021.
 - The application sought planning permission for proposed erection of two storey side extension without complying with a condition attached to planning permission Ref F/2009/0893, dated 25 June 2009.
 - The condition in dispute is No 4 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that order with or without modification) no buildings, extensions or alterations permitted by Classes A, B, C, D and E of Part 1 of the Second Schedule of the 1995 Order (as amended) shall be carried out.
 - The reason given for the condition is: To safeguard the character of the premises and the residential and visual amenities of the occupiers of the adjoining properties.
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Decision

1. The appeal is allowed, and planning permission is granted for the proposed erection of two storey side extension without complying with condition 4 of planning permission Ref: F/2009/0893, dated 25 June 2009, at 2 Wakefield Cottages, Bath Road, Hare Hatch RG10 9SS. As the permission has been implemented, there is no need to re-attach any of the previous conditions.

Procedural Matter

2. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published. The parties were consulted in relation to this matter and I have had regard to any responses received in my assessment of the appeal.

Main Issue

3. The main issue is whether the condition is reasonable and necessary, having regard to the requirements of local and national policy.

Reasons

4. The appeal site is located within the Green Belt where inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. The Framework confirms that the construction of

new buildings should be regarded as inappropriate development in the Green Belt, but that exceptions to this include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original dwelling.

5. The appeal site has been recently extended in a generous manner and the site also hosts a large outbuilding. I note that the approved extension was the result of a somewhat convoluted history, however, it was approved and was therefore deemed to be acceptable. It was also seeking permission for a very specific proposal, against which the effect on the Green Belt could be objectively assessed.
6. The disputed condition removed permitted development rights for domestic alterations and extensions. Through the recent permission, the restrictions have been lessened but the condition still limits the permitted development rights for the dwelling. Despite this, the Council has not demonstrated what could be achieved through permitted development. As a consequence, the condition is based solely on hypothetical scenarios.
7. I accept that the remaining permitted development rights could enable additional extensions and that when combined with the existing additions, these could stray beyond the 'limited scale' required by Policy TB01 of the Wokingham Borough Development Plan (2014). However, the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) does not make any special allowance for properties within the Green Belt. As a consequence, such properties benefit from the same rights as properties outside of the Green Belt.
8. Paragraph 54 of the Framework states that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Despite the extensions that currently exist, due to the lack of distinction within the GPDO, and the lack of examples of what the remaining permitted development rights could achieve, in my judgement, the evidence before me to remove permitted development rights is not substantive. The Council would also retain control over future extensions that would require planning permission, and on this basis, I note the dismissed appeal for a first floor rear extension due to harm to the Green Belt.
9. Accordingly, on the basis of the evidence before me, I am not satisfied that the harm that could be caused to the Green Belt has been adequately demonstrated. Consequently, I find that the clear justification to remove permitted development rights, as required by the Framework, does not exist.
10. Therefore, for the reasons identified above, I conclude that the condition is not reasonable or necessary.

Conclusion

11. For the reasons identified above, the appeal is allowed. I therefore revise planning permission Ref: F/2009/0893 accordingly.

Martin Chandler

INSPECTOR