
Appeal Decision

Site visit made on 29 November 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2021

Appeal Ref: APP/Y3615/W/21/3275369

Shepherds Hill, Broadfield Road, Peaslake GU5 9TB

- 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 Mr J Wood against the decision of Guildford Borough Council.
 - The application Ref 21/P/00282, dated 8 February 2021, was refused by notice dated 13 April 2021.
 - The application sought planning permission for the erection of a detached two storey five bedroom house with basement and integral double garage (part retrospective application) without complying with a condition attached to planning permission Ref 16/P/01356, dated 18 August 2016.
 - The condition in dispute is No 2 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, B, C, D, E shall be carried out on the dwellinghouse(s) hereby permitted or within their curtilage.
 - The reason given for the condition is: The local planning authority wishes to retain control over any future extensions / outbuildings at the property, in order to safeguard the character of the area.
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Background and Main Issue

3. Planning permission was previously granted (Ref: 16/P/01356) at the appeal site for the erection of a detached 2-storey 5 bedroom house with a basement and an integral double garage. That permission included a condition restricting permitted development rights in relation to Schedule 2, Part 1, Classes A, B, C, D, and E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The appellant seeks to remove the reference to Class E in that condition (retaining the reference to Classes A, B, C and D).
4. The Council's decision notice states that the reinstatement of permitted development rights would allow uncontrolled development to take place within the Green Belt, resulting in the incremental erosion of the openness of the Green Belt and would be contrary to the purpose of including land within the

Green Belt. The main issue in this appeal therefore is whether the reference to Class E in the disputed condition is reasonable and necessary in the interests of protecting the openness of the Green Belt and the purposes of including land within the Green Belt.

Reasons

5. The appeal site contains a large detached house set within an expansive plot. The driveway and garden is enveloped by a substantial area of natural meadow on 2 sides, beyond which lie open fields. Due to the sloping nature of parts of the site, the house and the meadow is positioned in a prominent position in the landscape. The site is within the Surrey Hills Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV).
6. Class E of Part 1 of Schedule 2 of the GPDO relates to buildings incidental to the enjoyment of a dwellinghouse. The GPDO does not withdraw the Class E permitted development right in the Green Belt, nor within AONBs or AGLVs. The limitations within Class E also restrict the size and bulk of any building erected via that class.
7. Furthermore, the Planning Practice Guidance (PPG) provides that, amongst other things, it is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls¹, and that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity². Nevertheless, the GPDO does not confer absolute rights. Planning law allows these rights to be withdrawn, where justified by the circumstances.
8. The house on site has been described as a 'substantial replacement dwelling' by the Council, and this has not been disputed by the appellant. The Officer's Report for the planning application for the house stated that it would be approximately 49% larger than the previous dwelling on site. As such, the openness of the Green Belt has been materially reduced by its erection, albeit to a degree previously found acceptable by the Council.
9. In this context, whilst Class E limits the scope of what can be built in a number of ways, including with respect to the total area of ground covered by a new building and its height, under its provisions sizeable buildings could be built in this location. Similarly, whilst the presence of the site within the AONB does mean that Class E rights are more restricted than they would be in a site outside of such areas, development of a reasonable size would still be permitted. Such buildings would materially erode the openness of the Green Belt.
10. I accept that there is no restriction at a national level to restrict the ability to construct buildings under Class E in the Green Belt. However, in this case, the appeal site, as detailed above has already seen the construction of a building that has reduced the openness of the Green Belt in a reasonably substantial manner. Further outbuildings, such as those which could be permitted under Class E would potentially reduce such openness further.

¹ Paragraph 21a-001-20140306

² Paragraph 21a-017-20190723

11. The National Planning Policy Framework (the Framework) states that Green Belts serve 5 purposes, including to assist in safeguarding the countryside from encroachment. The appeal site lies in a sensitive location, within the AONB and an AGLV and the type of development potentially allowed under Class E would have the potential to encroach further upon the local countryside.
12. I have carefully considered the examples provided by the appellant. However, in the appeal before me, the site-specific circumstances are highly relevant to my determination. In this respect the lack of any drawings or plans provided prevents me from being able to ascertain whether the examples referred to by the appellant are comparable with the appeal proposal. Moreover, whilst the appellant has referred to the reasoning in the Officer's Report for Ref 16/P/01356 and the Council's justification for imposing condition 2 within that report, this appeal decision constitutes a fresh and independent assessment of the matter applied for. Accordingly, none of these matters changes my findings.
13. Thus, taking account of both the PPG and paragraphs 54 and 56 of the Framework, I therefore find that the reference to Class E in the disputed condition is reasonable and necessary in the interests of protecting the openness of the Green Belt and the purpose of including land within the Green Belt. Consequently, the proposal to remove Class E from condition 2 is contrary to Policy P2 of the Guildford borough Local Plan strategy and sites 2015 – 2034 (adopted 2019), which provides that, amongst other things, the Metropolitan Green Belt will continue to be protected against inappropriate development in accordance with the Framework, and with the provisions of section 13 of the Framework, which seeks to protect the Green Belt against inappropriate development and to maintain its openness.

Other Matters

14. The proposal would allow the appellant to construct buildings on site which might be beneficial to their living conditions. However, as this would mainly be a private benefit, this has been given limited weight, and it does not outweigh my findings on the main issue.

Conclusion

15. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR