



Appeal Decision

Site visit made on 17 January 2022

by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2022

Appeal Ref: APP/R3650/W/21/3279113

Sawmill Cottage, Salt Lane, Hydestile, Godalming GU8 4DH

- 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 & Mrs Page against the decision of Waverley Borough Council.
- The application Ref WA/2020/2037, dated 2 December 2020, was approved on 4 June 2021 and planning permission was granted subject to conditions.
- The development permitted is 'Application under S73 to vary condition 1 of WA/2020/0104 (Erection of a dwelling following demolition of existing dwelling and outbuilding (as amended by plans received 04/05/2020) to allow changes to roof form and fenestration'.
- The condition in dispute is No 4 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other Order revoking or re-enacting that Order with or without modification), no development as defined within Part 1 of Schedule 2, Classes A-E inclusive of that order, shall be undertaken on the site without the written permission of the Local Planning Authority'.*
- The reason given for the condition is: *'In the interest of preserving the Green Belt and character and amenity of the area in accordance with Policies TD1, RE2 and RE3 of the Local Plan 2018 (Part 1) and retained Policies D1, D4 and RD2a of the Waverley Borough Local Plan 2002'.*

Decision

1. The appeal is allowed, and the planning permission Ref WA/2020/2037 for 'Application under S73 to vary condition 1 of WA/2020/0104 (Erection of a dwelling following demolition of existing dwelling and outbuilding (as amended by plans received 04/05/2020) to allow changes to roof form and fenestration' at Sawmill Cottage, Salt Lane, Hydestile, Godalming GU8 4DH, granted on 4 June 2021 by Waverley Borough Council, is **varied** by deleting condition 4 and substituting for it the following condition:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other Order revoking or re-enacting that Order with or without modification), no development as defined within Part 1 of Schedule 2, Classes A, D and E of that order, shall be undertaken on the site without the written permission of the Local Planning Authority'.

Preliminary Matter

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication.

The main parties have had the opportunity to comment on this matter as part of the appeal process, and I have taken account of the updated Framework in determining this appeal.

Background and Main Issue

3. Planning permission has previously been granted for the demolition of the existing property and outbuilding, and the construction of a replacement dwelling. A Section 73 application was subsequently approved, which was notably subject to a condition removing permitted development rights for alterations and extensions to the dwellinghouse. The appellants are contesting the imposition of this condition on the grounds that it does not meet the six tests as set out in paragraph 56 of the Framework.
4. The main issue is whether the disputed condition is reasonable, necessary and relevant to the development, having particular regard to the openness and purposes of the Green Belt and the character of the appearance of the area, including the Surrey Hills Area of Outstanding Natural Beauty (AONB).

Reasons

5. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The national Planning Practice Guidance (PPG) [Paragraph: 017 Reference ID: 21a-017-20190723] adds that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. It requires the scope of such conditions to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), so that is clear exactly which rights have been limited or withdrawn.
6. The appeal site currently comprises a two-storey dwellinghouse, garage and outbuilding set within a spacious and verdant plot, and surrounded by mature woodland. As noted above, the appeal site lies within the Metropolitan Green Belt and the Surrey Hills AONB. The existing property has been subject to a number of alterations and extensions.
7. Planning permission has previously been granted on the basis that, as set out in paragraph 149d) of the Framework, the replacement of a building is not regarded as inappropriate development in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces. Despite the floor area of the replacement dwelling being greater than the existing property, this was considered not to be materially larger.
8. However, the Council stresses that the replacement dwelling would be substantially larger than the original property as built, and this is not disputed by the appellant. Accordingly, and having regard to the site's particular circumstances and its context, not just in the Green Belt but also the Surrey Hills AONB, as well as its prominence in public views, I am satisfied that there is clear justification for restricting permitted development rights in this instance.
9. Condition 4 restricts the future use of permitted development rights in respect of Classes A (Enlargement, improvement or other alteration of a dwellinghouse), B (Additions etc to the roof of a dwellinghouse), C (Other

alterations to the roof of a dwellinghouse), D (Porches) and E (Buildings etc incidental to the enjoyment of a dwellinghouse. The condition was only imposed after careful consideration of the proposal for a replacement dwelling, and does not prevent planning permission being obtained for future alterations and extensions. The scope of the restrictions is clearly defined and accordingly, I am satisfied that the condition would not constitute a blanket removal of freedoms to carry out all types of householders extensions and alterations.

10. Notwithstanding the above, development is not permitted by Class B if the dwellinghouse is on article 2(3) land, which includes AONBs. This part of the condition is therefore not necessary. Furthermore, no substantive evidence has been presented to demonstrate why the formation of rooflights or windows would affect the openness or purposes of the Green Belt or the character and appearance of the AONB. The removal of permitted development rights afforded by Class C is therefore considered unnecessary. The disputed condition shall therefore be varied to remove references to Classes B and C.
11. By reason of the particular circumstances of the appeal scheme, nature of the development and the site's context, there is clear justification to restrict permitted developments under Schedule 2, Part 1, Classes A, D and E of the Order. This is to ensure that the Council is able to assess the effect of subsequent proposals upon the Green Belt, but also the character and appearance of the area and AONB, against the requirements of Policies TD1, RE2 and RE3 of the Local Plan 2018 (Part 1) and Saved Policies D1, D4 and RD2a of the Waverley Borough Local Plan 2002. Amongst other things, these seek to ensure that the Metropolitan Green Belt is protected against inappropriate development, and that proposals respect and where appropriate enhance the distinctive character of the landscape in which it is located.

Other Matter

12. My attention has been drawn to an appeal decision and planning application approved by the Council, regarding the removal of certain permitted development rights by condition. However, limited information has been presented regarding these particular schemes, and I cannot therefore be certain that their circumstances represent a direct parallel to the appeal before me which, in any event, I am required to assess on its individual merits.

Conclusion

13. For the reasons detailed above, I conclude that the planning permission should be varied as set out in the formal decision.

S Edwards

INSPECTOR