



Appeal Decision

Site visit made on 1 February 2022 by Thomas Courtney BA(Hons) MA

Decision by A Jordan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2022

Appeal Ref: APP/K2230/D/21/3285274

Fairwinds, Pear Tree Lane, Shorne, Gravesend, DA12 3JX

- 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 J.S. Dosanjh against the decision of Gravesend Borough Council.
 - The application Ref 20120315, dated 10 April 2012, was approved on 30 May 2012 and planning permission was granted subject to conditions.
 - The development permitted is the construction of enlarged roof on both sides of dwelling to provide two additional bedrooms at first floor level; conversion of eastern garage to dining room and full enclosure of both semi-enclosed courtyards.
 - The condition in dispute is No.4 which states that: *Notwithstanding the provisions of Part 1 Classes A or B of the Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended), or by any provision equivalent to that Class in any statutory instrument revoking, re-enacting or modifying that Order, no further extensions or roof enlargements shall be carried out to the property without the prior written consent of the local planning authority having first been obtained.*
 - The reason given for the condition is: *In order that any proposals for further extensions to the dwelling may be subject to planning control to enable considerations of matters such as its impact upon the character of the property and the openness of the Green Belt.*
-

Decision

1. The appeal is allowed and planning permission Ref 20120315 for the construction of enlarged roof on both sides of dwelling to provide two additional bedrooms at first floor level; conversion of eastern garage to dining room and full enclosure of both semi-enclosed courtyards at Fairwinds, Pear Tree Lane, Shorne, Gravesend, DA12 3JX granted on 30 May 2012 by Gravesend Borough Council is varied by deleting condition 4.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue in this case is the effect of removing the disputed condition on the Green Belt and the character and appearance of the host dwelling.

Reasons for the Recommendation

4. The appeal property lies within a large plot in the Green Belt, accessed via Pear Tree Lane. It is a two-storey dwelling setback from the street and characterised by its wide rectangular shape, its hipped roof and numerous projecting front gables. The south-western boundary of the site, to the rear of the house, is well-screened with mature vegetation whilst the side and front boundaries are more open, interspersed with tall, mature trees. A detached double garage lies in close proximity to the eastern flank of the main dwelling. In addition, I observed a large hipped roofed single storey outbuilding, a smaller outbuilding and a shed constructed to the south-east of the appeal dwelling.
5. It is necessary to consider whether the disputed planning condition meets the guidance for planning conditions set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The condition in dispute effectively removes Classes A and B, Part 1, Schedule 2 permitted development rights as are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) which relate to the enlargement, improvement or other alteration of a dwellinghouse, as well as additions to the roof of a dwellinghouse.
6. The Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness and necessity. The NPPF indicates that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
7. Planning permission ref. 20120315 allowed for additional floorspace representing a 26% increase over that of the original dwelling and additional permitted development was subsequently approved at the property with the erection of a single storey outbuilding and a detached double garage. The Council states that the disputed condition is necessary to prevent the erection of disproportionate extensions to the existing dwelling, suggesting that the cumulative effect of extensions afforded via the permitted development process could be detrimental to the openness of the Green Belt.
8. Whilst the Council assert that it is not unreasonable practice to withdraw permitted development rights on approved dwellings in the Green Belt, I find that, in this instance, it would be overly cautious and restrictive. Green Belt policy does not require proposals that would be permitted development to be assessed against whether they are inappropriate development in the Green Belt or not, nor is it necessary to assess their impact on openness. Also, the GPDO does not impose any specific restrictions on land in the Green Belt. I therefore see no justification for withdrawing permitted development rights on the basis of the potential impact on the Green Belt.
9. In addition, I note the Council implies that a larger dwelling resulting from permitted development would fail to positively respond and contribute to the features and character of the appeal dwelling. Nonetheless, permitted development rights for extensions relate only to the original part of the dwelling and due to the relatively moderate scale of any potential extensions relative to the size of the plot, I am not satisfied that these would be of an extent that would be likely to harm the character of the host dwelling.

10. Taking into account the size of the dwelling and the plot, I do not therefore consider that there is sufficient justification to warrant withholding Class A and B permitted development rights. I find the disputed planning condition is unnecessary and conflicts with paragraph 56 of the NPPF which seeks to ensure that planning conditions are only imposed where they are necessary and reasonable. With the condition removed, the development would remain to be in accordance with Policy CS02 of the Gravesham Local Plan Core Strategy (2014) (the 'Local Plan') and paragraphs 137 & 149 which seek to resist inappropriate development in the Green Belt and preserve its openness. It would also adhere to Policy CS19 of the Local Plan (2014) and paragraph 130 of the NPPF which together seek to ensure proposals are well-designed and maintain the character and appearance of the host dwelling.
11. I do not find that Policy CS12 of the Local Plan is directly relevant to the appeal as it relates more specifically to the borough's green infrastructure network and the protection of biodiversity and the conservation of valued landscapes.

Recommendation

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

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

A Jordan

INSPECTOR