



Appeal Decision

Site visit made on 17 May 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2022

Appeal Ref: APP/V1505/W/21/3289411

Crayside, Oak Road, Billericay CM11 2YL

- 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 Strotton against the decision of Basildon Borough Council.
 - The application Ref 21/00637/FULL, dated 15 April 2021, was approved on 17 September 2021 and planning permission was granted subject to conditions.
 - The development permitted is change of use of existing annexe to dwellinghouse.
 - The condition in dispute is No 3 which states that: *Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order revoking and re-enacting that Order, no development within Part One, Classes A, B, C and E of Schedule 2 to the Order shall be carried out within the site of this application, except with express permission granted under Part III of the Town and Country Planning Act 1990 or any re-enactment thereof.*
 - The reason given for the condition is: *To ensure that proper control is maintained over the construction of extensions and outbuildings within this Green Belt area in accordance with relevant planning policies and guidance.*
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Decision

1. The appeal is allowed and the planning permission Ref 21/00637/FULL for change of use of existing annexe to dwellinghouse at Crayside, Oak Road, Billericay CM11 2YL granted on 17 September 2021 by Basildon Borough Council, is varied by deleting condition 3.

Preliminary Matters

2. The appellant refers to the condition that is the subject of this appeal as Condition 2. However, it is clear from the appellant's representations that they are seeking removal of Condition 3 and this is confirmed by the appellant in their final comments. I have therefore included reference to condition 3 in the banner heading above and have determined the appeal accordingly.

Background and Main Issue

3. The Council sets out in its appeal statement that the disputed condition was imposed as part of the approval of 21/00637 (which has not yet been implemented) in order to control future extensions to the newly formed dwellinghouse and any potential/future outbuildings within the curtilage where any further uncontrolled development would result in a loss of openness to the Green Belt and harm its character.
4. The main issue is therefore whether the disputed condition is reasonable and necessary in the interests of protecting the openness of the Green Belt.

Reasons

5. Oak Road is a narrow road comprising of residential development interspersed with agricultural fields. Dwellings here are predominantly set back from the narrow road, often behind tall and verdant boundaries. Dwellings that are visible are of a range of sizes and styles although bungalows tend to be prevalent.
6. The appeal site is a modest sized single storey building that has been used as an annexe to the larger dwelling of Crayside. The annexe is set in line with Crayside, both of which are set back some distance from the road consistent with the prevailing character. A high fence with associated hedge and trees form a dense boundary with the highway such that the annexe can only be glimpsed through the entrance gates of Crayside. A tall dense hedge forms the boundary with the neighbouring dwelling to the west whilst the boundary with Crayside is formed by a low wall. The plot is narrower than its neighbour such that only a small gap exists between the east elevation and the boundary with Crayside, although a slightly larger gap exists to the opposite side.
7. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It sets out in paragraphs 149 and 150 specific exceptions where new buildings are not inappropriate in the Green Belt, including extensions to existing buildings.
8. Nonetheless, the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) does not impose any specific restrictions on land in the Green Belt. There is no requirement to consider whether proposals that are permitted development are inappropriate development or the effect on openness. Therefore, if the disputed condition was removed, implementing permitted development rights would not automatically result in inappropriate development in the Green Belt as defined in the Framework.
9. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. The Planning Practice Guidance (PPG) states that such a condition may not pass the tests of reasonableness or necessity, including in respect of small-scale domestic alterations. Simply that the appeal property is within the Green Belt, therefore, would not in itself provide a clear justification for the disputed condition.
10. The Council states that, by removing the condition, future extensions to the newly formed dwellinghouse and any potential/future outbuildings could narrow the site and reduce the spacious character between dwellings that is characteristic of Oak Road. However, this building is already positioned tight to the boundary with Crayside which severely limits the potential for any extension or outbuilding to this side of the dwelling.
11. Furthermore, the opposing dwelling at Oak House occupies a substantial plot with considerable space between that and the appeal site. Taking into account the small size of the existing building and its modest plot size, any extension, loft conversion or outbuilding constructed through exercising permitted development rights would likely also be modest in size and would certainly not appear disproportionate.

12. Notwithstanding the tall boundaries and lack of visibility of either site, any extension or outbuilding constructed under permitted development would therefore be unlikely to significantly intrude on the space between the appeal site and its neighbour. Larger outbuildings or extensions that fell outside of the permitted development rights criteria would be subject to assessment under planning policy.
13. For the above reasons I therefore conclude that the disputed condition is not reasonable or necessary in the interests of protecting the openness of the Green Belt. The development without the disputed condition would thus comply with saved Policy BAS BE12 of the Basildon Local Plan (2007) and the provisions of the Framework insofar as they relate to protecting Green Belt land.

Conclusion

14. For the reasons given I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

Paul Martinson

INSPECTOR