



Appeal Decision

Site visit made on 13 June 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2022

Appeal Ref: APP/M3645/W/21/3286606

Burstow Park Riding Centre, Antlands Lane, Shipley Bridge, RH6 9TF

- 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 L Huntley against the decision of Tandridge District Council.
 - The application Ref TA/2021/1195, dated 28 June 2021, was refused by notice dated 26 October 2021.
 - The application sought planning permission for removal of existing mobile home and erection of 4-bed bungalow for occupation in connection with riding school without complying with conditions attached to planning permission Ref TA/2004/144, dated 1 September 2004.
 - The conditions in dispute are Nos 7 and 9 which state:
Condition 7: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no form of enlargement, improvement or other alteration of the dwelling hereby permitted shall be carried out without the prior permission in writing of the District Planning Authority.
Condition 9: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking that Order with or without modification) no further buildings shall be erected within the curtilage of the dwelling permitted without the prior permission of the District Planning Authority.
 - The reasons given for the conditions are:
Condition 7: To retain control over the habitable accommodation at this property and ensure that such accommodation is not enlarged contrary to the District Planning Authority's restrictive policy for the extension of dwellings throughout the Metropolitan Green Belt.
Condition 9: To control further development of the site in the interests of the character and visual amenities of this area of Green Belt.
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Decision

1. The appeal is allowed and planning permission is granted for removal of existing mobile home and erection of 4-bed bungalow for occupation in connection with riding school at Burstow Park Riding Centre, Antlands Lane, Shipley Bridge, RH6 9TF in accordance with the application Ref TA/2021/1195, dated 28 June 2021, without compliance with condition numbers 7 and 9 previously imposed on planning permission Ref TA/2004/144, dated 1 September 2004 and subject to the conditions in the schedule at the end of this decision.

Main Issue

2. The main issue is whether the conditions are reasonable and necessary in the interests of preventing inappropriate development within the Green Belt and preserving its openness.

Reasons

3. The appeal site relates to Burstow Park Riding Centre which is accessed via a long track from Antlands Lane. The site comprises a detached bungalow which sits within a large plot, together with a range of stables and associated buildings, paddocks and a sand school. During my site visit I observed that a covered swimming pool had been constructed to the east of the bungalow. Other than the stables to the north and Burstow Park Farm complex to the south and west, the site lies in a rural setting of open fields within the Metropolitan Green Belt.
4. The site has an extensive planning history. Planning permission was granted in 2004 for the removal of the previous mobile home and its replacement with a bungalow for occupation in connection with the riding centre. The bungalow has since been constructed. The permission was subject to several conditions, including conditions 7 and 9, which remove permitted development rights for the enlargement, alteration and improvement of the dwelling and any buildings within its curtilage.
5. Paragraph 56 of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) set out the 6 tests for conditions. They must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. 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. The PPG says 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 necessity.
6. Policy DP13 of the Tandridge Local Plan Part 2: Detailed Policies (2014) (Local Plan) sets out that unless very special circumstances can be clearly demonstrated, the Council will regard the construction of new buildings as inappropriate in the Green Belt, subject to certain exceptions. One such exception is the extension or alteration of a building where the proposal does not result in disproportionate additions over and above the size of the original building. This approach is consistent with paragraph 149 (c) of the Framework. Policy DP10 of the Local Plan states that inappropriate development is, by definition, harmful to the Green Belt and will normally be refused. This reflects the approach set out in paragraph 147 of the Framework.
7. The officer report for the original planning permission appears to indicate that the previous mobile home on the site constituted a 'building' based on its size, permanence and physical attachment. Nevertheless, the Council concluded that the dwelling constituted inappropriate development in the Green Belt, but it found that the other considerations outweighed the harm to the Green Belt and that very special circumstances existed to justify the proposal.
8. The floor area of the new bungalow was slightly less than the mobile home. However, the bungalow represented an increase in volume due to the addition of a pitched roof. The new bungalow is situated slightly further north than the mobile home. The construction of the bungalow on land that was previously open has already significantly reduced the openness of the Green Belt. In these circumstances, I consider that it was reasonable and necessary to remove certain classes of Part 1 permitted development rights in order to protect the openness of the Green Belt.

9. Condition 7 currently prevents the enlargement, improvement or other alteration of the dwelling. Such control is too wide ranging and restrictive given what Part 1 permitted development rights now allow. However, given the large footprint of the bungalow, the removal of permitted development rights relating to Class A of Part 1 would potentially allow for large extensions to the sides and rear of the property, which if built to the maximum allowed under permitted development could result in disproportionate additions and a significant impact on the openness of the Green Belt. In these circumstances, I consider that the removal of permitted development rights for extensions to the property under Class A of Part 1 remains reasonable and necessary.
10. Classes B and C of Part 1 relate to additions and alterations to the roof of a dwellinghouse. Due to the limited height of the property and its shallow pitched roof, there is little potential for extensions to the roof. Any such extensions or alterations to the roof of the property, which could include the installation of rooflights under Class C, would have little effect on the openness of the Green Belt. Similarly, the erection of a porch under Class D of Part 1 would be a minor addition which would have little effect on the openness of the Green Belt. Classes F, G and H of Part 1 relate to hard surfaces, chimneys, flues and microwave antennas. These classes are subject to specific size restrictions and it is very unlikely that the implementation of these permitted development rights would have a harmful effect on Green Belt openness beyond what is envisaged by the GPDO. I therefore find no compelling justification for removing permitted developments rights under Classes B, C, D, F, G and H of Part 1.
11. The property is set within a large curtilage. Without any control over Class E permitted development rights, development could be carried out up to 50% of the total area of the curtilage, subject to other restrictions. That could result in the erection of substantial outbuildings within land that is currently open, and in those circumstances would conflict with the fundamental aim of keeping land permanently open. A revised condition restricting development under Class E of Part 1 of the GPDO therefore remains reasonable and necessary to preserve the openness of the Green Belt.
12. I acknowledge that the GPDO does not withdraw permitted development rights for extensions to dwellings within the Green Belt or for outbuildings within the curtilage. However, that does not justify the harm to the openness of the Green Belt that could arise if there were no controls at all over permitted development rights.
13. It is not certain that large extensions or outbuildings would be built. However, it is more than a theoretical possibility and therefore carries weight in the determination of this appeal. The removal of permitted development rights under Classes A and E of the GPDO would not prevent future extensions or outbuildings but allow the Council some control over their impact on the openness of the Green Belt.
14. For the reasons given above, I conclude that a revised condition that has the effect of controlling development within Classes A and E of the GPDO is necessary and reasonable in order to prevent inappropriate development in the Green Belt and harm to its openness, in accordance with Policies DP10 and DP13 of the Local Plan and the Framework, which seek to protect the Green Belt. However, there are certain classes of development under Part 1 of the GPDO, as set out above,

that would have little effect on the openness of the Green Belt were those permitted development rights to be exercised.

15. The guidance in the PPG makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Having regard to condition No 1 there is no dispute between the parties that the development was commenced within 5 years from the date of the permission. I have not, therefore, re-imposed this condition. Conditions relating to details of materials, landscaping and tree protection measures are not needed since the development has already been carried out. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Other Matters

16. An interested party states that there are no permitted development rights available to a planning unit comprising a mixed or composite sui generis use, or alternatively if a separate planning unit has been created then this raises questions around the lawful use of the site. However, as the appeal relates to the bungalow, the curtilage of which is shown on the approved plans, it is not necessary for me to determine whether the remainder of the site within the land edged red is within the same planning unit. Interested parties have raised a number of other concerns including land ownership, issues with a septic tank and a retrospective planning application for the swimming pool¹. However, these are separate matters which are not within the remit of my decision.

Conclusion

17. For the reasons outlined above, I consider that it is necessary and reasonable for a condition restricting some permitted development rights to be imposed, albeit in a revised form. Although I have not agreed with the entirety of the appellant's case, the effect of my decision leads me to conclude that the appeal should be allowed.

M Ollerenshaw

INSPECTOR

¹ Council ref TA/2020/1756

SCHEDULE OF CONDITIONS

- 1) The occupation of the dwelling hereby permitted shall be limited solely to persons employed by the establishment currently known as Burstow Park Riding School and their dependant family members.
- 2) Within 3 months of the date the dwelling hereby permitted is occupied, the mobile home and all additions thereto shall be removed from the land and the land restored in accordance with a scheme to be agreed in writing with the District Planning Authority. Thereafter there shall be only one dwelling within the area edged red on the site plan attached to the application.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no development under Schedule 2 Part 1 Classes A and E shall be carried out unless expressly authorised by a planning permission.