



Appeal Decision

Site visit made on 31 October 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/N0410/W/21/3287957

Hunters Cottage, St Huberts Lane, Gerrards Cross SL9 7BW

- 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 Blanshard against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref PL/21/3452/FA, dated 31 August 2021, was approved on 8 November 2021 and planning permission was granted subject to conditions.
 - The development permitted is described as "an application for an extension to the residential curtilage".
 - The condition in dispute is No 2 which states that: *Notwithstanding the provisions of Article 3 and Classes A & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement of or to the dwellinghouse the subject of this permission, shall be carried out nor shall any building or enclosure required for a purpose incidental to the enjoyment of said dwellinghouse be constructed or placed on any part of the land covered by this permission.*
 - The reason given for the condition is: *The site is located within the Metropolitan Green Belt where strict control over development is necessary in order to maintain the openness of the Green Belt. (Policy GB1 of the South Bucks District Local Plan (adopted March 1999) refers).*
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Decision

1. The appeal is allowed and the planning permission Ref PL/21/3452/FA for an application for an extension to the residential curtilage at Hunters Cottage, St Huberts Lane, Gerrards Cross SL9 7BW granted on 8 November 2021 by Buckinghamshire Council - South Area (South Bucks), is varied by deleting Condition 2.

Procedural Matters

2. The proposed development refers to the 'extension' to the garden associated with Hunters Cottage. Therefore, this appeal is concerned with those areas that are additional to those already approved as part of the previous planning permission¹ for the conversion and extension of the existing agricultural building to a detached dwelling. I have therefore determined the appeal on this basis.

Background and Main Issue

3. Planning permission² was granted for the conversion and extension of an agricultural building into a detached dwelling at the appeal site. The site edged

¹ Planning Ref PL/18/4854/FA

² Planning Ref PL/18/4854/FA

red was tightly drawn around the access road, a single parking space and the extended building. Classes A, B and E of Part 1, Schedule 2 of the General Permitted Development Order³ (GPDO) were removed by Condition 3 of the approval. The reason for this condition is due to the site being located within the Metropolitan Green Belt where strict control is necessary to maintain its openness.

4. Planning permission⁴ was approved to delete Condition 3 of the previous planning approval. The Council's reasoning was based on the tightly drawn site edged red. They conceded that any such extension, roof alteration or outbuilding undertaken as permitted development, would be limited and therefore would not result in disproportionate additions or result in an adverse impact on the openness of the Green Belt.
5. Planning permission⁵ was subsequently approved to extend the area to be used as garden associated with Hunters Cottage. This involved increasing the area to the north and west of the dwelling, and to the west of the access road. The Council considered the proposal acceptable as the size and shape of the original garden area was deemed to be unreasonably small and unusable. However, the Council attached Condition 2 that removed permitted development rights for Classes A and E of Part 1, Schedule 2 of the GPDO. The Council considered this reasonable and necessary to protect the openness of the Green Belt.
6. The appellant objects to Condition 2 as they consider that it fails to meet the tests for conditions set out at paragraph 56 of the National Planning Policy Framework (NPPF).
7. Taking the above into consideration, the main issue is whether the condition is reasonable and necessary in the interests of maintaining the openness of the Green Belt.

Reasons

8. The Government attaches great importance to Green Belts, with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. Schedule 2, Part 1 of the GPDO sets out the permitted development rights for development within the curtilage of a dwellinghouse. These rights apply generally to all dwellings, with specific exceptions for some classes, but the GPDO does not withdraw permitted development rights from dwellings in the Green Belt. Furthermore, there is nothing in the NPPF which indicates that such rights should be restricted in the Green Belt.
9. Paragraph 54 of the NPPF states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Furthermore, the Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. Accordingly, a dwelling located within the Green Belt is not in itself clear justification for removing permitted development rights.
10. Paragraph 150 of the NPPF states that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do

³ The Town and Country Planning (General Permitted Development) (England) Order 2015

⁴ Planning Ref PL/21/1129/VRC

⁵ Planning Ref PL/21/3452/FA

not conflict with the purposes of including land within it. One such exception is (e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). The proposal involves the change of use of land to extend the garden area associated with Hunters Cottage, as defined by the site edged red on the submitted drawings. Therefore, it would comply with criterion (e) providing it preserved the openness of the Green Belt and does not conflict with the purposes of including land within in.

11. Saved Policy GB1 of the South Bucks District Local Plan, adopted 1999⁶ (LP) outlines a closed list of developments that would be acceptable in the Green Belt, including (g) other uses of land and essential facilities for them which would not compromise the purposes of including land in the Green Belt and which would permanently retain its open and undeveloped character. Whilst Saved Policy GB13 of the LP states that proposals to extend residential curtilages in or into the Green Belt will not be permitted unless the proposal would be entirely contained within the boundary of a settlement listed in Policy GB3.
12. LP Policies GB1 and GB13 are more prescriptive and restrictive than the NPPF and are therefore not entirely consistent with it. Annex 1 of the NPPF states that the weight afforded to policies in plans should accord with their degree of consistency with the NPPF. For this reason, I attribute limited weight to Saved LP Policies GB1 and GB13.
13. The extended areas of garden subject to this appeal are not the originally approved residential curtilage of Hunters Cottage. However, the land has the appearance and function of serving and being incidental to the enjoyment of Hunters Cottage and it would be within the same planning unit. Therefore, I see no reason why these additional areas of land could not form part of the curtilage and benefit from permitted development rights.
14. I note that the original agricultural building was modest in size and was previously extended when planning permission was granted for its conversion to a dwelling. I understand the concern that future additions to the dwelling or within its curtilage could impact upon the openness of the Green Belt. I also understand that the extensions approved in the original permission allowed the building to grow to a size that was considered the maximum that would not be disproportionate and would not harm the openness of the Green Belt. However, the dwelling as converted and extended, comprises the original dwelling for the purposes of planning policy. Furthermore, permitted development rights are intact for those parts of the appeal site that form the original permission⁷ and therefore the dwelling could be extended, and outbuildings could be erected, within these areas.
15. The extended garden area is not excessive in size or disproportionately large for the dwelling it serves, which in turn, restricts the size of any potential outbuildings. Furthermore, the site edged red is tightly drawn around two sides of the dwelling, limiting the scale of any future extensions. Moreover, any works that would be considered to fall under permitted development rights would be subject to control under the restrictions and conditions specified in the relevant sections of the GPDO. Even without Council control and

⁶ Adopted March 1999. Consolidated September 2007 and February 2011

⁷ Planning Ref PL/18/4854/FA

assessment under national and local planning policies, there is nothing before me to indicate that any future extensions or outbuildings would be disproportionate to the original building given the restrictions the GPDO places on these developments.

16. The occupation of the dwelling by the appellant or otherwise and potential unauthorised developments at the appeal site, have no bearing on my consideration of the planning merits of the proposal.
17. I conclude that the disputed condition is not reasonable or necessary in the interests of maintaining the openness of the Green Belt. The development without the disputed condition would comply with Policies GB1 and GB13 of the LP and paragraph 150 of the NPPF. I therefore find that the disputed condition conflicts with paragraph 56 of the NPPF and the advice in the PPG.
18. I therefore allow the appeal and vary the original permission by deleting the disputed condition.

A Berry

INSPECTOR