



Appeal Decision

Site visit made on 24 January 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/Y3615/W/22/3296304

Hollowfield Cottage, Littleton Lane, Guildford, GU3 1HN.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for 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 Mr and Mrs Musson against Guildford Borough Council.
 - The application Ref. 21/P/02532 is dated 02 December 2021.
 - The application sought planning permission for the erection of a replacement single storey two-bedroom dwelling and garage, following demolition of the existing dwelling and outbuildings, without complying with a condition attached to planning permission Ref. 20/P/00963, dated 23 December 2020.
 - The condition in dispute is No.6 which states that: "Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, B, D, E and F shall be carried out on the dwellinghouse hereby permitted or within their curtilage."
 - The reason given for the condition is: "Having regard to the size of the dwelling approved, the local planning authority wishes to retain control over any future development (including extensions, alterations outbuildings and hard surfaces) in the interests of the openness of the Green Belt and the special character of the Conservation Area."
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Decision

1. The appeal is allowed and the planning permission Ref. 20/P/00963 for the erection of a replacement single storey two-bedroom dwelling and garage, following demolition of the existing dwelling and outbuildings, at Hollowfield Cottage, Littleton Lane, Guildford, GU3 1HN, granted on 23 December 2020 by Guildford Borough Council, is varied by deleting condition No.6 and substituting for it the following new condition No.6:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Schedule 2, Part 1, Class E shall be carried out within the curtilage of the dwellinghouse hereby permitted.

Main Issue

2. The appeal is against non-determination but the Council has now set out the reason why permission would have been refused had the Council been able to decide the application. From this the main issue is whether there are clear planning reasons for the retention of condition No.6 particularly the effect of the replacement dwelling with no 'permitted development' restrictions on the openness of the Green Belt.

Reasons

Background

3. The appeal site is a long thin area of land that lies on the edge of the hamlet of Littleton and also within the Littleton Conservation Area. The site also lies in an elevated position in the Surrey Hills Area of Outstanding Natural Beauty (AONB) and an Area of Great Landscape Value (AGLV) as well as the Green Belt. At the time of my visit a new dwelling was under construction and was substantially complete. It is apparent from the planning history that this is a replacement dwelling and the previous bungalow was demolished early in 2022. It is also apparent that the size of a replacement dwelling has been a contentious subject with appeals dismissed in 2019 and 2016. The appellants' submitted plan shows the outline of a 4m deep extension added to the north facing elevation of the new property which is said would be possible under Class A of the GPDO¹.
4. For clarity, in general terms, condition No. 6 restricts Classes A, B, D, E and F (of schedule 2 Part 1 the GPDO). These relate to (in the same order): the enlargement of the dwelling house; additions to the roof; porches; incidental out-buildings and creation of hard surfaces.

Green Belt context

5. The National Planning Policy Framework (the Framework) indicates in paragraph 149 that the construction of new buildings in the Green Belt is inappropriate development unless a proposal falls within one of the stated exceptions. The relevant one for this case is (d) concerning replacement buildings where, to be acceptable, the new building must be in the same use and not materially larger than the one it replaces.
6. It is clear from the officer report that assesses application Ref. 20/P/00963 that the size of the replacement dwelling was a main issue and the report breaks down the floor areas of the existing and proposed dwellings. Although the new dwelling would be substantially greater in floor area footprint, the cumulative area of the then existing outbuildings was also taken into account to ensure that there was no increase in floor area. From this the officer concluded that the new building would not be materially greater than the dwelling to be replaced.

Condition No. 6

7. From this I am satisfied there is clear justification to retain the reference to Class E in condition 6 as the cumulative size and scale of outbuildings have

¹ the Town and Country Planning (General Permitted Development) (England) Order 2015

already been taken account of. However, there is little evidence that the size of the original dwelling had been assessed taking into consideration extensions previously carried out under Classes A or B as described above. Moreover, the provision for porches under Class D is very limited and unlikely to have a material effect on the overall size of the replacement dwelling. Likewise, Class F provision of new hard surfaces is also likely to have a negligible effect on the Green Belt.

8. Guidance in 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. In this case I am satisfied that the retention of condition 6 in respect of Class E serves a clear planning purpose and is justified to ensure that the new dwelling allowed continues to be not materially larger than the buildings it replaced in accordance with the policy of the Framework and Policy P2 of the Local Plan. However there is not clear justification for the retention of the other Classes in Condition 6 even taking account of the sensitivity of the site in the Conservation Area, AONB and AGLV. I find that these other restrictions have therefore not been shown to be reasonable and necessary.
9. I will therefore allow the appeal in part and, in effect, delete Classes A, B, D and F from condition 6 but retain Class E.

Conclusion

10. For the reasons given above I conclude that part of the appeal should be allowed.

David Murray

INSPECTOR