



Appeal Decision

Site visit made on 10 January 2023

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/Q3630/W/22/3300033

Dell Cottage, Shrubbs Hill Lane, Sunningdale, Windsor and Maidenhead, Ascot SL5 0LD

- 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 Ms Darielle Woffindin against the decision of Runnymede Borough Council.
 - The application Ref RU.22/0186, dated 2 February 2022, was refused by notice dated 4 May 2022.
 - The application sought planning permission for the erection of a single storey dwelling with basement, involving the demolition of the existing dwelling and outbuildings without complying with condition 7 attached to planning permission Ref RU.21/0933 dated 15 June 2021.
 - The condition in dispute is No 7 which states that: Notwithstanding the provisions of Class A and Class E of Schedule 2, Part 1 and of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any orders amending or re-enacting that Order with or without modification, no extensions or enlargements to the new dwelling within Class A shall be constructed or carried out and no development within the descriptions of Class E shall be constructed or carried out, without the prior written permission of the Local Planning Authority.
 - The reasons given for the condition are: To protect the openness and visual amenities of the Green Belt and to comply with saved Policies EE1 and EE14 of the Runnymede 2030 Local Plan and guidance within the NPPF.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey dwelling with basement, involving the demolition of the existing dwelling and outbuildings at Dell Cottage, Shrubbs Hill Lane, Sunningdale, Windsor and Maidenhead, Ascot SL5 0LD in accordance with the terms of the application, Ref RU.22/0186, dated 2 February 2022 without complying with condition 7 previously imposed on planning permission Ref RU.21/0933 dated 15 June 2021 and subject to the conditions listed in the attached schedule.

Preliminary Matters

2. This appeal relates to an application to vary a condition on planning permission Ref. RU.21/0933. That permission itself also arose from an application to carry out development without complying with a condition attached to earlier permissions Ref. RU.19/1051 and varied permission RU. 19/1803, which discharge and varied conditions. Planning permission Ref. RU. 21/0933 sought to vary planning condition 3 of planning approval RU.19/1803 to change some approved materials.

3. Given the history, I have used the description of development from the original planning permission (Ref. RU.19/1051).

Background and Main Issue

4. Permission was granted in 2019¹ for the erection of a single storey dwelling with basement, involving the demolition of the existing dwelling and outbuildings. A subsequent application for an extension to the replacement dwelling ref RU.21/1664 has also been approved. From what I saw on site, the works to form the external envelope of the extension has been carried out but the works are not fully completed.
5. In granting planning permission Ref. RU. 19/1051 and the subsequent variations, the Council imposed a condition that removed the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent revision) (GPDO) removing permitted development rights for Class A and E, which relate to extensions and outbuildings within the curtilage of the dwellinghouse.
6. The appellant seeks to remove reference to 'Class E' rights from condition 7, being those permitted rights that allow buildings or enclosures required for an incidental purpose to the enjoyment of the dwellinghouse, or alterations to existing buildings and enclosures within the curtilage. To achieve this, condition 7 would need to be removed and replaced with a condition removing any reference to Class E.
7. The Council state that without the condition, the replacement dwelling would have been considered unacceptable development due to the impact upon openness, visual amenity and the purposes of the Green Belt. Although the Council refers to an impact on 'visual amenity', the concerns only refer to openness and the purposes of the Green Belt rather than an effect on the character and appearance of the area. I have considered the appeal in this manner.
8. In view of the above, the main issue is whether the disputed condition is reasonable and necessary, having regard to the site's location in the Green Belt.

Reasons

9. The National Planning Policy Framework (the Framework) sets out the tests for planning conditions and, at paragraph 54, sets out that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Planning Practice Guidance (the PPG) also indicates that the 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.
10. Although the site subject of the appeal is within the Green Belt, and the Framework places importance on its openness, the GPDO does not place any further restriction on extending dwellings or erecting outbuildings in these locations. As such, it is reasonable to conclude that outbuildings within the curtilage are permissible where they accord with the provisions of the GPDO. In

¹ RU.19/1051

view of this, the site's location in the Green Belt should not prevent the application of permitted development rights, unless there is a clear justification.

11. A larger dwelling was permitted at the site in the 2019 parent case, considering the existing dwelling and several outbuildings in assessing the size increase. The Officer Report determined that the substantial volume increase resulting from the basement was offset by the increase in visual openness across the site. It was determined that the proposed development would have a lesser impact on openness than the existing development if the existing outbuildings were removed and a condition was included to control the proliferation of outbuildings on the site. Ultimately, the replacement dwelling was deemed to be compliant with the requirements 149 (g)² of the Framework.
12. I note that the consolidation of the built form in one location and the removal of the large, prominent outbuildings would increase visual openness at the site. However, there is no substantive evidence that the larger replacement dwelling would necessarily result in the proliferation of prominent outbuildings on the site. On the contrary, the dwelling is set back further into the site and would be larger reducing the curtilage space to the front and rear. A large garden area is maintained to the side, but this space has different levels across the site and a central access track from the lane to the replacement house. These matters limit the scope of developable land in the garden and makes it unlikely that a proliferation of large and prominent outbuildings could be erected on the garden land, preserving the visual openness.
13. As such, based on the evidence before me, and the findings of my site visit, I do not consider that there are circumstances particular to this site and the history that justifies a stricter approach to permitted development rights than exist on other properties in the Green Belt.
14. As such, the proposed condition is not necessary or reasonable to protect the openness and purposes of the Green Belt. The proposed varied condition would be compliant with Policies EE1 and EE14 of the Runnymede Local Plan 2020, which requires amongst other things, development proposals to be a high-quality design that responds to local distinctiveness, maintains the openness of the Green Belt and does not conflict with the purposes of including the land in the Green Belt. The proposed variation would also comply with the requirements of paragraph 54 of the Framework on decision making and guidance in the PPG.

Conditions

15. I will grant a new planning permission without the disputed condition but substitute a new one that does not make reference to Class E permitted development rights.
16. As the works have commenced on site, I will not impose a time period for the development to be implemented. Furthermore, as works have largely been completed conditions 5, 6, 10 and 12 are no longer necessary, and they have been deleted. I have insufficient information before me about the status of the condition 13 imposed on the original planning permission, as such, I shall reimpose this. In the event that it has been discharged, that is a matter which can be addressed by the two main parties.

² Referred to as Paragraph 145 (g) of the February 2019 National Planning Policy Framework in Officer report.

17. I have considered the remaining conditions to be reimposed in the light of advice in the National Planning Practice Guidance (the PPG) and, in the interests of clarity and precision, I have amended some of the wording.

Conclusion

18. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

M. P. Howell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted be carried out in accordance with the following approved plans: 262_GA014 A, 262_GA013 A, 262_GA012 A, 262_GA011 A, 262_GA010 A, 262_GA002 B, 262_GA001 C, 262_GA004 F, 262_GA003 E, 262_GA015 B, 262_GA009 D, 262_GA008 Revision A, 262_GA007 Revision A, 262_GA006 F, 262_GA005 E, 262_C_P03_01 Revision C1 , Tree Protection Plan Jul 19, Preliminary Roost Assessment May 19, Protected Species Report June 2019, Arboricultural Survey June 2019, Design and Access Statement July 2019.
- 2) The development hereby permitted shall be constructed in accordance with the materials detailed within plans 262_C_P03_01 Revision C1, 262_GA008 Revision A and 262_GA007 Revision A.
- 3) The surface water drainage works shall be undertaken in accordance with the details as approved under RU.19/1801.
- 4) Notwithstanding the provisions of Class A of Schedule 2, Part 1 and of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any orders amending or re-enacting that Order with or without modification, no extensions or enlargements to the new dwelling within Class A shall be constructed or carried out without the prior written permission of the Local Planning Authority.
- 5) The development hereby approved shall be implemented fully in accordance with the recommendations in section 7.1 of the Preliminary Roost Assessment May 19 (in relation to nesting birds) hereby approved.
- 6) Tree works shall be undertaken in strict accordance with the details as approved under RU.19/1801.
- 7) Hard and soft Landscaping shall be undertaken in strict accordance with the details as approved under RU.19/1801.
- 8) Before the development hereby permitted is occupied, details to include siting, floor plans, elevations and materials of the proposed vehicle access gate and pillars and any associated walls or fencing shall be submitted to and approved in writing by the Local Planning Authority (LPA). Development shall be carried out in accordance with the approved details.