



Appeal Decision

Site visit made on 19 June 2023

by **B Phillips BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 July 2023

Appeal Ref: APP/D3640/D/22/3307604

The White Cottage, Hatton Hill, Windlesham, Surrey GU20 6AD

- 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 Rachael Jarnet against the decision of Surrey Heath Borough Council.
- The application Ref 22/0636/PMR, dated 29 June 2022, was refused by notice dated 25 August 2022.
- The application sought planning permission for the 'erection of a two storey side extension with porch and a single storey rear extension, demolition of existing detached garage and store (resubmission of 20/0449/FFU)' without complying with a condition attached to planning permission Ref 20/0979/FFU, dated 23 February 2021.
- The condition in dispute is No 4 which states that: *Notwithstanding the provisions of Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) no further outbuildings shall be erected or undertaken without the prior approval in writing of the Local Planning Authority. Any development under the Classes stated above undertaken or implemented between the date of this decision and the commencement of the development hereby approved shall be demolished and all material debris resulting permanently removed from the land within one month of the development hereby approved coming into first use.*
- The reason given for the condition is: *To enable the Local Planning Authority to retain control over the enlargement, improvement or other alterations to the development in the interests of protecting the Green Belt and to accord with the National Planning Policy Framework.*

Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. Planning application 20/0979/FFU granted permission for the erection of a two-storey side extension with porch and a single storey rear extension at the White Cottage, a detached property sited within the Green Belt. I observed that at the time of my visit the extension appeared largely constructed.
3. The approved scheme was a resubmission of a previously refused scheme¹, which was considered to result in a disproportionate addition over the size of the original building. The Council set out that there was no difference between the dimensions of the proposed extensions, however a replacement for the outbuilding to be demolished was removed from the scheme. The loss of the

¹ Application reference 20/0449/FFU

outbuildings therefore mitigated for the additional development proposed and reduced the spread of development across the site.

4. This meant that the additional floorspace over the original building was considered to be a proportionate increase as per paragraph 149 (c) of the National Planning Policy Framework (the Framework).
5. The application the subject of this appeal sought to remove condition 4 of this approval, which removed permitted development rights at the property for outbuildings. The reason for the condition is to enable the LPA to have control over the erection of outbuildings at the property, given the Green Belt location. The Council considers that any future outbuildings are likely to result in inappropriate development in the Green Belt.
6. The appellant considers that there are no justifiable reasons why the Council have imposed a condition restricting permitted development rights for outbuildings for the property. It is their view that the disputed condition does not satisfy the 'directly related' and 'necessary' tests set out the Framework.

Main Issue

7. As such, the main issue in this case whether the condition is necessary to prevent harm being caused to the openness of the Green Belt.

Reasons

8. The Framework advises that planning conditions should be kept to a minimum, and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The National Planning Practice Guidance (the NPPG) says that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances.
9. Permitted development rights to extend dwellings and construct domestic outbuildings under the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) apply in the Green Belt, and Green Belt siting is not sufficient grounds alone for the removal of permitted development rights.
10. However, I note that the approved scheme was considered acceptable by the Council due to the removal of the existing garage outbuilding. Indeed, this is referred to in the description of development. It is evident that, given the refusal of the previous similar scheme, that the removal of the outbuilding was an essential and key component in ensuring that the development complied with the proportionate test in Policy DM4 of the Core Strategy & Development Management Policies 2011-2028 (2012) (DMP) and the Framework. This was due to the loss of floorspace compensating in part for the additional floorspace but also the reduced spread of development across the site.
11. The condition in dispute only removes permitted development rights for outbuildings (class E) and not general extensions or additions. As the proposed development only met policy requirements due to the loss of an outbuilding, then a condition removing the right to simply replace this outbuilding elsewhere on the site is directly related to the circumstances of this particular

development and site. The condition is clearly justified and therefore passed the test of necessity and reasonableness.

12. Moreover, the outbuildings in question provided covered parking spaces for the property and there are now no such spaces provided. Whilst hypothetical, it is not unreasonable to consider, that, given the original refused application included a replacement garage and there remains ample space around the property, that this may lead to pressure for additional covered parking facilities or storage buildings in the future. This could result in the further addition of floorspace that may be disproportionate and spread of development across the site, to the detriment of openness. I find that these circumstances are exceptional and meet the test of the NPPG.
13. The appellant makes reference to three appeal decisions. The first² relates to a planning permission for an extension approved with a condition removing permitted development rights for 'further additions or extensions'. No reference is made to Green Belt. As such, given the breadth of the condition, the Inspector did not consider that it met the test of necessity.
14. The second³ relates to a barn conversion. The Inspector felt that the condition, removing permitted development rights for all extensions and buildings solely on the grounds that the site was within the Green Belt did not represent an exceptional circumstance. It is also stated that the Council concluded that they were not opposed to the removal of the condition.
15. Finally, the third appeal decision⁴ relates to a replacement dwelling. Again, the condition in dispute removed permitted development rights for Class A, B, D E and F, a less site and development specific condition without clear and exceptional circumstances.
16. As such, I do not consider these three examples are directly comparable. Whilst other extensions to properties nearby may have been granted planning permission without similar conditions, I can only consider the case before me.
17. I therefore conclude that the disputed condition continues to serve a useful purpose, and, without it, the development would not accord with DMP Policy DM4, which seeks to protect the Green Belt from inappropriate development and maintain its openness.

Conclusion

18. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be dismissed.

B Phillips

INSPECTOR

² Appeal reference APP/X0360/W/21/3268070

³ Appeal reference APP/Z4718/W/21/3268030

⁴ Appeal reference APP/E3715/W/21/3285260