The Planning Inspectorate

# Appeal Decision

**by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 July 2023**

**Appeal Ref: APP/R3650/X/23/3315880**
**Foxbury Hill, Foxburrow Hill Road, Bramley, Guildford, Surrey GU5 0BU**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Chris Nichols against the decision of Waverley Borough Council.
- The application Ref WA/2022/02582, dated 3 October 2022, was refused by notice dated 30 November 2022.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the erection of a detached outbuilding.

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. Based on the evidence before me and the fact that this appeal is a legal determination based on the interpretation of permitted development rights pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) I have determined that a site visit is not necessary.

## Main Issues

3. The main issue is whether the Council's decision to refuse to grant a certificate of lawful use or development was well-founded. That turns on whether the proposed development falls within Schedule 2, Part 1, Class E of the GPDO.

## Reasons

4. The application was refused because, according to the Council, the proposed detached outbuilding fails to meet restriction E.2 of Class E because the land within the curtilage of the dwellinghouse is within an area of outstanding natural beauty (AONB) and the total area of the ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

5. The proposed detached outbuilding would be situated less than 20 metres from any wall of the dwellinghouse, but the Council contends that there are existing outbuildings more than 20 metres from the dwellinghouse and one of these measures approximately 23 square metres. It seems to me that reference to

"*buildings*" in condition E.2 refers to any buildings situated more than 20 metres from any wall of the dwellinghouse rather than just the building the subject of the application. Consequently, because the total area of ground already covered by any buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwelling house would exceed 10 square metres, a certificate cannot be issued since planning permission would be required.

6. Therefore, irrespective of any interpretation of the rationale behind the permitted development restrictions and any decisions that may have previously been made by the Council, and for the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development with respect of the erection of a detached outbuilding was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me under section 195(2) of the 1990 Act as amended.

*A A Phillips*

INSPECTOR