



Appeal Decision

Site visit made on 5 July 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/Y3615/D/22/3308153

Woodland Glen, Green Dene, East Horsley, Surrey KT24 5RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs Phillips against the decision of Guildford Borough Council.
- The application Ref 22/P/0964, dated 1 June 2022, was refused by notice dated 5 August 2022.
- The application sought planning permission for *erection of a replacement garage* without complying with conditions attached to planning permission Ref 20/P/01874, dated 31 December 2020.
- The condition in dispute is No. 2 which states: *The development hereby permitted shall be carried out in accordance with the following approved plans: RB/WG/PL01, RB/WG/PL04, 1514-KC-XX-YTREE-TPP01 REV 0 & 1514-KC-XX-YTREE-TPP01 REV B received on 05/11/2020.*
- The reason given for the condition is: *To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.*

Decision

1. The appeal is allowed and planning permission is granted for erection of a replacement garage at Woodland Glen, Green Dene, East Horsley, Surrey KT24 5RD in accordance with application Ref 22/P/0964, dated 1 June 2022 without compliance with condition number 2 previously imposed on planning permission Ref 20/P/01874, dated 31 December 2020, but subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the approved plans: RB/WG/PL01, RB/WG/PL04 Rev C.
 - 2) The hardstanding area hereby permitted on the frontage shall have a permeable (or porous) surfacing which allows water to drain through, or surface water shall be directed to a lawn, border or soakaway, so as to prevent the discharge of water onto the public highway and this should be therefore maintained.

Preliminary Matters

2. The appeal is made under section 73 of the Town and Country Planning Act 1990. It seeks to vary the list of approved plans imposed by condition 2 of the permission granted by Ref 20/P/01874 (referred to hereon as the original permission). The plans submitted with application Ref 22/P/0964, subject to this appeal, (referred to hereon as the submitted plans) propose amendments to the garage, which would increase its volume and floorspace, as well as

replace a shuttered window on the western side elevation with a larger fixed window (referred to hereon as the amendments).

3. I saw on site that the replacement garage has been constructed. However, while it largely appeared to reflect the submitted plans, the western side elevation includes an external door at first floor level rather than a fixed window. For the avoidance of doubt, I have determined the appeal on the basis of the submitted plans.
4. Despite the Council determining the application under Section 73, the evidence before me suggests that there was a breach of conditions before the application for a variation of condition was made. The appeal should therefore be considered under Section 73A. The practical differences of determining the appeal under sections 73 and 73A are limited and therefore no injustice would arise from this approach. I have therefore considered the appeal on this basis.
5. The Planning Practice Guidance is clear that under Section 73 I must consider only the disputed condition subject to the appeal, in this case the proposed amendments to the permitted garage. It is not a complete re-consideration of the original permission.

Main Issue

6. The main issue is whether the amendments would result in the permitted garage being inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

Reasons

Inappropriate Development

7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Paragraph 49 of the Framework sets out that the replacement of a building is not inappropriate in the Green Belt, provided the building is in the same use and not materially larger than the one it replaces.
9. Policy P2 of the Guildford Borough Council Local Plan: Strategy and Sites (2019) (Local Plan) is broadly consistent with the Framework. It requires a replacement building to be sited on or in a position that substantially overlaps that of the original building, unless it can be clearly demonstrated that an alternative position would not increase the overall impact on the openness of the Green Belt.
10. Notwithstanding this, the amendments have not changed the positioning of the permitted garage which was approved by the Council as part of the original permission.
11. The amendments have increased the height, width, and depth of the garage and therefore its overall volume. They also include a second storey storage area, which has significantly increased the floor space. Nevertheless, the overall increase in the scale of the garage from that permitted to that

constructed is very modest and visually inappreciable. Given this, whether or not the permitted garage was on the upper edge of being acceptable, and despite the increase in floorspace resulting in a slight increase in the bulk of the garage, I find the amendments have not resulted in the overall scale of the garage being materially larger than the original side garage that it replaced.

12. Accordingly, the development meets the exception set out at paragraph 149 (d) of the Framework. Thus, it is not an inappropriate form of development in the Green Belt and would accord with Policy P2 of the Local Plan and the associated provisions of the Framework.

Other Matters

13. Interested parties have raised concerns regarding light pollution from the proposed fixed window, which as part of the original permission was smaller and had shutters. The Council consider it unlikely, given the use of the building as a garage, that lights would be on for an extended period of time. From the evidence before me and my observations on site I am of the same view. Given this, any increase in light pollution is likely to be limited and not to a degree that it would result in any harm.

Conditions

14. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permission that continue to have effect. I have a copy of the original permission, Ref 20/P/01874, before me, which was subject to 5 conditions. I have no information before me about the status of these conditions. I shall therefore impose all those that I consider remain relevant.
15. In the interest of certainty, I have imposed a condition specifying the plans that are approved and that the development shall be undertaken in accordance with them. As the original development has started, there is no need to impose a time limit condition. Also, I saw on site that the existing garage has been demolished; therefore, it is not necessary to impose a condition to this effect.
16. The Council has requested that an additional condition is attached requiring the materials to be used in the construction of the external surfaces of the development to match the existing building. However, given the garage has been constructed, this is not necessary. For the same reason, a condition requiring tree protection measures is also not necessary.
17. I have reimposed the condition relating to the drainage of the hardstanding area as it requires future maintenance.

Conclusion

18. For the reasons above, considering the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed, subject to the conditions set out above.

Hannah Guest INSPECTOR