



Appeal Decision

Site visit made on 20 June 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/G2245/W/22/3309684

Rothbury, Canons Walk, Brasted Chart, Westerham, Kent TN16 1NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Dr G Hollingworth & Dr L Murtagh against the decision of Sevenoaks District Council.
 - The application Ref 22/00936/HOUSE, dated 1 April 2022, was approved on 30 May 2022 and planning permission was granted subject to conditions.
 - The development permitted is *Addition of hipped roof to existing first floor flat roof (south elevation), installation of glass balustrade to existing flat roof on the south elevation and balcony access door.*
 - The condition in dispute is No.3 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2016 (or any Order amending, revoking and re-enacting that Order) no development within the curtilage of the dwelling house permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be carried out or made to the dwelling without the grant of a further planning permission by the Local Planning Authority.*
 - The reasons given for the condition is: *To protect the openness and character of the Green Belt as this proposal was supported due to the very special circumstances of the case, as supported by the National Planning Policy Framework and policy GB1 of Sevenoaks District Councils Allocation and Development Management Plan.*
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Dr G Hollingworth & Dr L Murtagh against the decision of Sevenoaks District Council. This application is the subject of a separate decision.

Background and Main Issue

3. The Council granted planning permission with a condition to remove permitted development rights under the GPDO¹ for certain classes of development, and the appellant seeks the removal of the condition to enable full permitted development rights to be reinstated. The Council considers that the condition is necessary to preserve the openness of the Green Belt. Therefore, the main issue in this appeal is whether the condition is reasonable and necessary to safeguard the openness of the Green Belt.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Reasons

4. The appeal property is a large, detached dwelling in extensive grounds within a rural location. It is located in the Green Belt and in the Kent Downs Area of Outstanding Natural Beauty (AONB). From the evidence before me, it is clear that the original dwelling has been substantially extended but there is little evidence before me in regard to the justification for any previous extensions and/or additions.
5. The Framework states that the construction of new buildings in the Green Belt is inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Limited exceptions to this include that set out in paragraph 149 c) which refers to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
6. While the Framework does not define disproportionate additions, Policy GB1 of the Sevenoaks Allocations and Development Management Plan 2015 (SADMP) sets out the approach to such matters. Its supporting text clearly refers to the exception, albeit with reference to an earlier version of the Framework; and that proposals for extensions and alterations to a building in the Green Belt are to be considered under Policy GB1.
7. Consequently, I am not persuaded by the appellant's argument at this appeal, that the proposal should be considered as an exception under paragraph 149 g) of the Framework, which refers to the partial or complete redevelopment of previously developed land (PDL). Whether or not the appeal site forms PDL, the determining factor in relation to this exception is the effect of the proposal upon the openness of the Green Belt.
8. Policy GB1 permits limited extensions to dwellings in the Green Belt provided they satisfy certain criteria. The dispute in regard to this policy concerns the application of criterion b), which states "*the design responds to the original form & appearance of the building and the proposed volume of the extension, taking into consideration any previous extensions, is proportional and subservient to the 'original' dwelling, and does not materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion*".
9. The main parties agree that the design is acceptable, and the proposal would not result in any additional floorspace to the existing dwelling by virtue of the creation of a hipped roof profile over an existing first floor flat roof. I find no reason to consider otherwise. However, it would result in an increase in volume to the original dwelling. By itself, and in the context of the existing dwelling, this increase would be modest. Nevertheless, having regard to the scale of previous extensions and/or additions, the cumulative increase in volume would be significant, and thus, it would not be proportional and subservient to the original dwelling.
10. Therefore, of itself and with regard to previous extensions, there would be a material change to the openness of the green belt with regard to the original dwelling, at least in spatial terms. Paragraph 5.6 of the Supplementary Planning Document: Development in the Green Belt 2015 is clear that small reductions in openness, repeated many times can have a cumulatively detrimental effect.

11. Consequently, criterion b) of Policy GB1 is not satisfied, and thus criterion c) applies. The Council considered the uplift in floorspace and found that the original dwelling had already been increased by some 123%, which is well in excess of the 50% threshold detailed in criteria c). This figure is not disputed by the appellant. Therefore, it is clear that the proposal is inappropriate development, which is harmful by definition, and very special circumstances must exist in order to allow such development.
12. Even if I were to agree that the proposal was PDL, it is clear that the proposal would result in harm to openness in spatial terms, as it would add volume to the existing dwelling, and thus it would not meet the exception under paragraph 149 g) of the Framework.
13. I have had regard to the appeal decision² submitted by the appellant, and I acknowledge that the GPDO does not restrict permitted development rights relating to development within the curtilage of a dwellinghouse in the Green Belt. The development that falls in these classes would not generally conflict with the purposes of the Green Belt or its essential characteristics of openness and permanence. Thus, the location of the appeal site within the Green Belt does not of itself represent justification to warrant removal of permitted development rights.
14. I also accept that the blanket removal of such rights is unlikely to meet the tests of reasonableness and necessity, and must be clearly justified, in accordance with Planning Practice Guidance (PPG) and the Framework. However, in this case, the cumulative threshold of Policy GB1 has been substantially exceeded, in stark contrast to that within the quoted appeal decision, and thus the two cases are not directly comparable.
15. The spatial aspect of openness could be harmed by reason of further additions to the appeal property under classes A-E of the GPDO, over and above what has already been developed at the site. The spatial harm could be significant, dependant on the nature of further additions, over which the Council would have no control, subject to the criteria in the GPDO, including the those relating to Article 2(3) land (AONBs).
16. Consequently, certain permitted development rights were removed, without which the very special circumstances required to justify the development would not exist. Without such control, I cannot be certain that any development under Classes A-E would not result in disproportionate additions over and above the size of the original building and would not, therefore, harm the openness of the Green Belt.
17. I therefore conclude that the disputed condition is both reasonable and necessary, in order to preserve the openness of the Green Belt. The condition complies with Policy GB1 of the SAMDP and paragraph 149 of the Framework, which taken together seek to ensure that extensions to existing buildings in the Green Belt are not disproportionate to the original building, and that development does not materially harm the openness of the Green Belt. Therefore, there is no need to remove it.

Conclusion

18. For the reasons given, I conclude that the appeal should be dismissed.

² APP/P1940/W/21/3275230

J Moore BA (Hons) BPL MRTPI

INSPECTOR