



Appeal Decision

Site visit made on 14 September 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 16th November 2023

Appeal Ref: APP/A3655/W/23/3314623

The Whins, Lawfords Hill Road, Worplesdon, Guildford, Surrey GU3 3QB

- 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 Mr S Laffin against the decision of Woking Borough Council.
- The application Ref PLAN/2022/0712, dated 21 July 2022, was approved on 22 December 2022 and planning permission was granted subject to conditions.
- The development permitted is erection of a detached outbuilding to frontage following demolition of existing garage, car port and shed.
- The condition in dispute is No 3 which states that: *"Notwithstanding the provisions of Article 3 and Schedule 2, Part 1 and Classes A B and E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (or any orders amending or re-enacting that Order with or without modification) no extension, enlargement or other alteration of the dwelling(s) or detached outbuilding other than as expressly authorised by this permission shall be carried out without planning permission being first obtained from the Local Planning Authority."*
- The reason given for the condition is: *"The Local Planning Authority considers that further development of the site or dwelling could cause detriment to the openness of the Green Belt and for this reason would wish to control any future development."*

Decision

1. The appeal is allowed and the planning permission Ref. PLAN/2022/0712 for the erection of a detached outbuilding to frontage following demolition of existing garage, car port and shed at The Whins, Lawfords Hill Road, Worplesdon, Guildford, Surrey GU3 3QB granted on 22 December 2022 by Woking Borough Council, is varied by deleting condition No. 3.

Application for costs

2. An application for costs was made by Mr Simon Laffin against Woking Borough Council. The cost application is the subject of a separate decision.

Background and Main Issues

3. There is an extensive planning history associated with the appeal property. Two previous planning applications¹ for similar developments were refused. The second application was appealed and allowed². The resulting decision included three conditions. None of the conditions specified that planning permission would be required for future development in circumstances where the proposal complied with the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the Order').

¹ Application Refs. PLAN/2021/0981 and PLAN/2022/0135

² Appeal Ref. APP/A3655/D/22/3300999

4. The committee report recommended that the application should be refused, therefore, a rationale for the disputed condition was not included within the report. Furthermore, no further evidence has been provided to explain why the condition was attached. Thus, only the wording on the decision notice, duplicated in the banner above, has been provided as a reason for the condition.
5. During my site visit I observed that the garage, car port, and shed had been demolished and construction works were ongoing. I am therefore reliant on the evidence before me, to assess the effect of these outbuildings on the openness of the Green Belt. I will also refer to the proposal as the proposed outbuilding throughout my decision, albeit certain aspects may already be constructed.
6. Taking the above background into account, the main issue is whether condition No. 3 is reasonable and necessary, in the interest of preserving the openness of the Green Belt.

Reasons

7. Policy CS6 of the Woking Local Development Document, Woking Core Strategy, October 2012, indicates within the Green Belt strict control will apply over inappropriate development, as defined by Government policy. Paragraph 137 of the National Planning Policy Framework (the Framework) explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 149 of the Framework advises that the construction of new buildings in the Green Belt should be regarded as inappropriate, other than a few noted exceptions. Exception d) is the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.
8. Furthermore, policy DM13 of the Woking Local Development Documents, Development Management Policies Development Plan Document (DMP), October 2016, largely replicates paragraph 149d) of the Framework, with the addition that the replacement building should be sited on or close to the position of the building it is replacing, unless an alternative siting within the curtilage demonstrably improves the openness of the Green Belt. Within the explanatory text the council indicates that, when assessing whether a replacement building is materially larger, a building that is no more than 20%-40% larger than the one it replaces would not usually be disproportionate.
9. In granting planning permission, the council accepted that the replacement building is not materially larger than the demolished garage, car port and shed. There was a disagreement on the effect these structures were having on the openness of the Green Belt. The inspector for the previous appeal at this site, explained that these structures were affecting the openness of the Green Belt. Thus, they should be considered when calculating the difference in size between the replacement building and those structures. There is no substantive evidence before me to dispute the previous inspector's findings.
10. The appellant contends that the demolition of the structures and the construction of the replacement building would lead to a 7.6% reduction in volume of built development. Whereas, the council contends that it would lead to an 11% increase. Even if I accept the council's calculation, the increase in

volume is limited and significantly below the council's accepted range set out within the explanatory text of DMP policy DM13.

11. The reason for the condition in dispute is to maintain the openness of the Green Belt by restricting development under Classes A, B and E of the Order. However, the Order does not distinguish between land within or outside of the Green Belt. It follows that development which falls in these categories, would not generally conflict with the purposes of the Green Belt or its essential characteristics of openness and permanence. Therefore, the appeal site being within the Green Belt would not, in itself, warrant the removal of permitted development rights.
12. The appellant did not justify the size of the proposed outbuilding, through the fallback position of development that could have been achieved utilising permitted development rights. Rather, the council accepted that the proposed outbuilding would not be materially larger than the previous garage, car port and shed. Development which falls under the provisions of the Order could have been undertaken previously without the need for planning permission and would not have conflicted with the purposes of the Green Belt including maintaining its openness. As the replacement building is not materially larger, it is not reasonable to seek further control over development, which was previously considered to be acceptable.
13. Furthermore, as the appellant did not rely on the floorspace or volume of the main house to justify the size of the proposed outbuilding, it would not be reasonable to seek additional control on alterations and extensions to the main house.
14. Finally, the recently allowed appeal at the same appeal site relates to a very similar proposal which is a slightly larger development than the outbuilding which is the subject of this appeal. As above, the inspector allowed the appeal and did not attach a condition requiring the appellant to apply for planning permission for development that falls within schedule 2, part 1, classes A, B and E of the Order. That appeal decision is a material consideration for this appeal, in the interest of consistency, it would not be reasonable for me to retain condition No. 3.

Conclusion

15. I conclude that condition No. 3 is not reasonable or necessary in the interest of preserving the openness of the Green Belt. For the reasons given above, I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

J Hobbs

INSPECTOR