



Appeal Decision

Site visit made on 27 February 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2024

Appeal Ref: APP/M3645/W/23/3324909

Wards Farm, The Stables, London Road, Felbridge, Surrey RH19 2QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Holly Thompstone against the decision of Tandridge District Council.
 - The application Ref is TA/2023/385.
 - The application sought planning permission for the change of use of redundant farm building to provide 3 bedroom single storey dwelling, formation of access and parking area without complying with a condition attached to planning permission Ref 93/659, dated 24 May 1994.
 - The condition in dispute is No 3 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1988 (or any order revoking and re-enacting that Order) no extensions or other forms of enlargement of the dwelling(s) hereby permitted shall be carried out without the prior permission in writing of the District planning authority.*
 - The reason given for the condition is: *to enable the District Planning Authority to retain control over extensions and to ensure that the development does not prejudice the District Planning Authority's policy for the Metropolitan Green Belt where new residential development is not normally permitted.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's statement of case refers to costs, although it expressly states no application for costs is included. In accordance with the Planning Practice Guidance (PPG), the costs application must be made in writing by any party not later than the final comments stage. Though I have had regard to the points raised in assessing this appeal, no costs application was made within the requisite timeframe.
3. The Government has recently published a revised version of the National Planning Policy Framework (the Framework). Whilst making certain revisions to aspects of national planning policy, the provisions in respect of the main issues in this appeal have not been substantively changed. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by this.

Background and Main Issue

4. Planning permission was granted for a new dwelling in the Green Belt, which was subsequently built out. The appellant seeks the removal of condition 3, which removes permitted development rights for extensions and other forms of enlargement of the permitted dwelling.
5. The main issue is whether the condition is necessary and reasonable having regard to local and national Green Belt policies.

Reasons

6. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance advises on conditions restricting the future use of permitted development rights. It states these will rarely pass the test of necessity and should only be used in exceptional circumstances.
7. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
8. Policies DP10 and DP13 of the Tandridge District Local Plan Part 2: Detailed Policies 2014-2029 (adopted 2014) (LPP2) set out very similar provisions and are consistent with the Framework. In particular, exception (E) to Policy DP13 states that the extension or alteration of buildings would not be inappropriate development, where the proposal does not result in disproportionate additions over and above the size of the original building.
9. The evidence suggests the original permission was granted on the basis that it was deemed to meet a Green Belt exception at the time or there would be no further harm to the Green Belt. As set out in condition 3, subsequent extensions or other forms of enlargement of the dwelling would be controlled by the Council in order to protect the Green Belt and its openness.
10. The Officer report identifies specific harm to the Green Belt that would arise if permitted development rights were to be executed. In addition, it sets out some brief calculations in relation to the amount of volume that could be added to the dwelling under certain permitted development rights, which is not disputed by the appellant.
11. Indeed, as suggested by the appellant, substantial enlargements under permitted development rights could take place by way of a rear extension, side extension or upwards extension. If built to around the maximum allowed under permitted development, such extensions could result in disproportionate additions and in a significant impact on the openness of the Green Belt. More modest enlargements such as a porch could also take place. However, having considered the specific situation of the appeal dwelling, I am not provided with substantive evidence that gives me sufficient assurance that this or other more

- modest additions, as could be permitted, would not constitute inappropriate development and result in harmful effects upon visual and spatial openness.
12. Given the above, it is more than a theoretical possibility that large extensions or development constituting inappropriate development could be built. The removal of permitted development rights for enlargements to the dwellinghouse as set out in condition 3 does not require that no extensions are ever built, only that they go through the process of obtaining express planning first, which allows the Council to assess them having regard to Green Belt policy.
 13. I acknowledge that local policy and the General Permitted Development (England) Order 2015 (as amended) (GPDO) do not specifically withdraw permitted development rights for extensions to dwellings within the Green Belt. However, the development plan, like the Framework, seeks to safeguard the Green Belt from inappropriate development, which is a matter that attracts substantial weight. The existence of wider permitted development rights, and the specific prior approval appeal decisions are noted. However, prior approval is a different process and the case has not been sufficiently justified why its existence as an option upon some dwellings in the Green Belt outweighs the harm that, for the reasons outlined, could arise from the removal of condition 3 on the appeal dwelling.
 14. The appellant suggests that they would be agreeable to the reinstatement of some permitted development rights. However, no further details in relation to this matter have been provided, including which GPDO classes. For the reasons set out above, based upon the evidence before me, it has not been demonstrated that such changes could not result in inappropriate development.
 15. I have considered the contents of different appeal decisions and officer reports provided and referred to by the appellant. These include where it was concluded that conditions relating to the removal of permitted development rights for sites within the Green Belt should not be imposed or should be removed. However, these recognise that the removal of these rights should be used in appropriate instances and, additionally, these assessments have been carried out based on site-specific circumstances where no justification was found for these rights to be removed. In this case, I have found that circumstances exist that justify the condition, so these other decisions / officer reports do not alter my findings in this appeal.
 16. The appellant has put forward decision notices of cases where applications to remove planning conditions related to permitted development rights have been permitted. I have very limited details of these applications, with no specific details of the circumstances and considerations that led to their approval. As such, I cannot make any meaningful and robust comparison between this proposal and those schemes. Equally, because they do not directly relate to the issue of Green Belt, I am unable to draw any direct and meaningful comparison between the proposal and the examples provided where permitted development rights were removed for other reasons which are not related to the Green Belt. They do not justify allowing this appeal.
 17. The appellant makes the case that extensions are allowed to properties within the Green Belt. Whereas this may be the case, I do not have the full particulars of any cases before me and cannot be certain that the specific circumstances are comparable to this proposal. Therefore, these examples attract limited

weight and do not alter my assessment of this scheme, which I have considered on its specific planning merits.

18. The appellant notes that there is no condition restricting the permitted development rights for the erection of outbuildings within the site. However, there are no plans before me of what could be erected, or a stated intention to do so in the event this appeal were to fail. Therefore, this matter attracts limited weight and would not justify the reinstatement of permitted development rights for extensions to and enlargement of the host dwelling.
19. In conclusion, the removal of condition 3 would be harmful to the openness of the Green Belt and would be likely to result in inappropriate development in the Green Belt which is, by definition, harmful. This would be contrary to Policies DP10 and DP13 of the LPP2 and the aims of the Framework which seeks to protect the Green Belt and attaches substantial weight to any harm to the Green Belt. Therefore, I am satisfied that condition 3 is reasonable and necessary, and that exceptional circumstances exist in this case that justify its retention.

Other Matters

20. I note the appellant's comments in relation to the character of the area. However, condition 3 was imposed in the interests of protecting the Green Belt, so any potential effect on the character and appearance of the area arising from carrying out development under permitted development rights would be of limited relevance to the main issue under consideration in this case.
21. On the evidence before me, it appears that the appeal site falls within Special Protection Areas and Special Area of Conservation. As I am dismissing the appeal for other reasons, I have not considered this matter further.

Conclusion

22. For the reasons given above the appeal is dismissed.

P Terceiro

INSPECTOR