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## Appeal Decision

Site visit made on 29 February 2024

**by R Lawrence MRTPI, BSc (Hons), PGDip (TP)**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 July 2024**

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**Appeal Ref: APP/D3640/W/23/3325621**

**Broomacre, Station Road, Chobham, Woking, Surrey GU24 8AZ**

- 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 Mr Richard Turner against the decision of Surrey Heath Borough Council.
- The application Ref is 22/1087/PMR.
- The application sought planning permission for: Erection of a two-storey rear extension, single-storey side extension and 3 dormer windows following conversion of roofspace to habitable accommodation, partial demolition of existing property and associated alterations without complying with a condition attached to planning permission Ref 12/0617 dated 26 November 2012.
- The condition in dispute is No 3 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no further garages, extensions or other buildings shall be erected without the prior approval in writing of the Local Planning Authority. Any outbuildings and/or extensions built between the date of this notice and the commencement of development should be demolished, the demolition spoil removed and the site cleared to the reasonable satisfaction of the Local Planning Authority before first occupation of the development hereby approved.
- The reason given for the condition is: To enable the Local Planning Authority to retain control over the enlargement, improvement or other alterations to the development in the interests of the visual and residential amenity and to accord with Policies CP1, DM1 and DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

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### Decision

1. The appeal is allowed and planning permission is granted for Erection of a two-storey rear extension, single-storey side extension and 3 dormer windows following the conversion of the roofspace to habitable accommodation, partial demolition of the existing property and associated alterations at Broomacre, Station Road, Chobham, Woking, Surrey GU24 8AZ in accordance with the application Ref 22/1087/PMR, without compliance with condition number 3 previously imposed on planning permission Ref 12/0617 dated 26/11/2012 and subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 09871 01 (Rev BR A), 09871 05 (Rev BR), 09871 02 (Rev BR), 09871 03 (Rev BR), 09871 04 (Rev BR).

## **Applications for costs**

2. An application for costs was made by Mr Richard Turner against the decision of Mole Valley District Council. This is the subject of a separate decision.

## **Background**

3. Planning permission was granted for rear and side extensions to the host property together with conversion of the roof space (the original permission). The permission has been implemented.
4. The original proposal was found by the Council to, cumulatively, result in disproportionate additions to the property. The proposal was therefore found to constitute inappropriate development in the Green Belt, for which very special circumstances were required in order for the development to be approved. There were a number of other considerations which were found to clearly outweigh the harm to the Green Belt. Those other considerations included a permitted development fallback, an earlier extant 2008 permission for extensions to the property and the imposition of a condition to restrict permitted development rights.
5. The appellants are seeking the removal of that condition, on the grounds that it is not reasonable or necessary, and further it is not sufficiently precise. Furthermore, the appellants contend that exceptional circumstances have not been demonstrated to justify the condition.
6. Given this background, and the evidence of the Council as set out in the officer reports for the current and the original proposals, the effect of the proposal on the Green Belt is a relevant matter for consideration, notwithstanding the reason for refusal on the decision notice. The comments of the main parties have been sought in terms of the effect on the Green Belt. The Council's evidence also refers to the effect of the development on the semi-rural open character, and the visual amenities of neighbouring occupiers.
7. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. Whilst this made certain revisions to aspects of national planning policy, the provision in respect of the matters relied on by the main parties are unchanged. Therefore, I did not need to consult with the main parties regarding the revised Framework and in determining this appeal, I have had regard to the most recent version.

## **Main Issues**

8. Taking into account the above background, the main issues are, the effect of the development, without the condition in place, on:
  - the Green Belt, including, (i) whether or not the proposal would be inappropriate development in the Green Belt and if relevant (ii) the effect upon the openness of the Green Belt,
  - the character and appearance of the area,
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development, and

- whether the condition is reasonable and necessary in all other respects.

## **Reasons**

### *Green Belt*

9. Policy CP1 of the Core Strategy and Development Management Policies 2012 (CS), sets out the spatial strategy for the Borough. There are no specific requirements within the policy relating to development in the Green Belt and it is silent on the forms of development which are inappropriate. Although my attention has not been drawn to any development plan policy which restricts residential development in the Green Belt, reference is made to the Framework.
10. The Framework sets out that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. One such exception is 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.
11. Permitted development rights can in some circumstances permit sizeable extensions that would exceed the disproportionate test in paragraph 154c) of the Framework. There are no schemes before me such to demonstrate what works could be undertaken if the condition were to be removed. However, the appeal property has already been subject of a number of significant extensions to both the side and rear, including that subject of the original proposal. Given the specific limitations and conditions set out in the General Permitted Development Order (GPDO), the potential for future extensions or alterations carried out using permitted development rights would be extremely limited.
12. Permitted development rights have not been withdrawn (in total or in part) in the Green Belt, in the GPDO. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so (paragraph 54). In addition, the Planning Practice Guide (the PPG) states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. Furthermore, it advises that area-wide or blanket removal of freedoms to carry out small scale domestic alterations, which would otherwise not require an application for planning permission, are unlikely to meet the tests of reasonableness and necessity. Although the condition in dispute did not remove all householder permitted development rights, such as rooflights, it did restrict a high proportion of them.
13. There is no substantive evidence before me that any further extensions or alterations to the appeal property, through permitted development rights, would cause harm to the Green Belt. Given this, and that the GPDO does not restrict such rights in the Green Belt, this provides a very clear indication that such extensions or alterations would not amount to inappropriate development in the Green Belt.
14. In light of the above, it is clear that it would not be harmful to the openness of the Green Belt or the purposes of including land in it.

### *Character and appearance*

15. The appeal site comprises a large, detached house, which is well set back within the site and is accessed by a long driveway. The site boundaries which comprise of planting and trees, provide a high degree of screening. There is a good separation within the plot between the house and the site boundaries. The area is residential and of a low density which contributes to the open semi-rural character.
16. Further extensions to the property, through permitted development rights, would, given the size of the plot and the position of the existing house, retain a good separation to the site boundaries. This would in turn serve to retain the low density of the area and the open semi-rural character. The set back within the site, is such that further extensions or alterations through permitted development rights would not appear unduly prominent.
17. As referenced above, the potential for future extensions or alterations carried out using permitted development rights would be extremely limited. This indicates that any further extensions or alterations through permitted development rights would be limited in scale and unlikely to cause harm to character and appearance.
18. The site boundaries comprise of planting and trees, as such, glimpsed views may be possible at certain times of the year, or indeed if the vegetation were to be removed. Nonetheless, given the generous separation distances between buildings, and the limited extent of permitted development rights available, there is no evidence that any such works would have a detrimental impact on the visual amenities of neighbouring occupiers.
19. Given the above, the removal of permitted development rights is not necessary in the interests of the character of the area, or in order to comply with policy DM9 of the CS. Policy DM9 requires, amongst other matters, development to be of a high-quality design which respects and enhances the rural setting.

### *Reasonable and necessary*

20. Permitted development rights for garages and other outbuildings were also removed. The original proposal related to extensions and alterations to the main building, and did not include either the removal of, or provision of, any outbuildings. There is nothing before me to suggest that the granting of the original permission would have increased the demand for further outbuildings on the site over and above the previous position. As such, the removal of permitted development rights for garages and other buildings does not appear to be relevant to the original proposal, and further is neither reasonable nor necessary.
21. The second part of the condition is no longer applicable as the extensions have been implemented, and the demolition spoil has been removed from the site.

### **Conditions**

22. As set out above, a condition removing permitted development rights is neither reasonable nor necessary. This condition is therefore deleted.
23. In terms of the remaining conditions originally imposed, numbers 1 and 3 which relate to the materials to be used in the extensions, and a time limit on

implementation, are no longer necessary given the development has been implemented.

24. A plan numbers condition is justified in the interests of certainty, however, I have omitted the tail piece used by the Council requiring alterations to be approved by the Council, as this would circumvent the statutory route to vary the condition, depriving third parties of the opportunity to comment.

### **Conclusion**

25. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

*R Lawrence*

INSPECTOR