



Appeal Decision

Site visit made on 19 June 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/Y3615/W/23/3331811

Grandview House, 94 Broad Street, Wood Street Village, Guildford, GU3 3BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Evan Leighton-Davis against the decision of Guildford Borough Council.
 - The application Ref 22/P/02166 was approved on 5 October 2023 and planning permission was granted subject to conditions.
 - The development permitted is Change of use of existing outbuilding to self-contained two-bedroom dwelling and associated hard/soft landscaping works.
 - The condition in dispute is No 13 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, B, D or E shall be carried out on the dwellinghouse hereby permitted or within its curtilage.
 - The reason given for the condition is: The application building is a replacement building in the Green Belt which replaced an original building with a smaller footprint and volume. The Local Planning Authority wishes to retain control over any future extensions / outbuildings at the property, to safeguard the openness and function of the Green Belt in accordance with Policy P2 of the adopted Guildford Borough Local Plan: Strategy and Sites 2015-2034 and Chapter 13 of the National Planning Policy Framework (2021).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the condition is reasonable and necessary having regard to national and local planning policies in respect of the openness and purposes of the Green Belt.

Reasons

3. The National Planning Policy Framework (2023) (Framework) sets out that inappropriate development is by definition harmful to the Green Belt and that its purposes include to check the unrestricted sprawl of large built up areas and to assist in safeguarding the countryside from encroachment. However, paragraph 155 lists certain forms of development which are not inappropriate. This is broadly echoed by Policy P2 of the Guildford Borough Local Plan: Strategy and Sites (2019) (LP).
4. Planning permission was granted for the change of use of the replacement outbuilding to an independent dwelling on the basis that it was the re-use of a

building of permanent and substantial construction and preserved the openness of the Green Belt and the purposes of including land within it. Consequently, the change of use was not inappropriate development.

5. The condition in dispute restricts certain PD rights. The reason for the condition was in order to safeguard the openness and the function of the Green Belt. The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) grants planning permission for certain classes of development, and there are no particular restrictions relating to properties in the Green Belt in relation to Part 1, Classes A, B, D or E. Furthermore, planning conditions should not be used to restrict national permitted development (PD) rights unless there is clear justification to do so and such conditions may not pass the test of reasonableness or necessity.
6. Even considering the size of the plot, it would be possible to erect extensions, roof extensions, a porch and/or outbuildings to the approved dwelling within the terms set out in the GPDO. This right would apply permanently, notwithstanding the appellant's stated intention not to undertake any additions.
7. The building that is the subject of this appeal was constructed as a replacement outbuilding, not materially larger than the one it replaced, associated with Grandview House. There is no evidence before me that the existing outbuilding benefits from independent PD rights. Therefore, in granting permission for a new independent dwelling, in the absence of the condition, this would provide potential for additions to the existing building which did not previously exist.
8. The council concluded that, subject to the condition restricting PD, the development would preserve openness. Without the condition there is the potential for those elements restricted by PD rights to have an impact on openness and purposes. Since these matters were important as to whether the development would be inappropriate development in principle it may be reasonable to restrict PD rights.
9. Structures built under PD would introduce development where there currently is none, which could have a harmful effect on spatial openness. Whilst the site is not readily visible in public views, additions could be seen from Grandview House, and therefore there could also be some potential for effects on visual openness. There was previously a garage on the plot, however this was removed prior to 2022. As such, any extensions built under PD would not replace any existing volume. Considering the planning permission for the independent dwelling was granted on the basis that it would preserve openness, and having regard to the site's history, it is legitimate for the Council to seek to consider the effect of future development on the Green Belt's openness.
10. In terms of the Green Belt purposes, due to the site arrangements, whereby the building operated as an ancillary facility to the main dwelling within the garden area of that property, additions to the building would not encroach into open countryside or result in sprawl. Therefore, I am satisfied that the condition would not need to be imposed to ensure future development would not conflict with the purposes of including land within the Green Belt.
11. Nevertheless, taking into account the specific circumstances outlined above, it is legitimate for the council to consider whether any future development would have an impact on openness through the submission of a planning application.

In this case, this provides clear justification for the restriction of PD. As such, the condition in question would enable this development to proceed where it would otherwise have been necessary to refuse planning permission.

12. Therefore, the condition is reasonable and necessary having regard to national and local planning policies in respect of the openness of the Green Belt.

Other Matters

13. Planning permission was granted for extensions and alterations at Grandview House and Glebe House where there have been applications permitted to remove conditions which restricted PD. Similarly, an appeal for extensions and alterations at 23 Papercourt Lane was allowed, but a condition relating to the removal of PD was not attached. These all relate to situations where the decision maker was considering extensions to an existing property, not a new dwelling. As such they are notably different to the situation before me now and do not alter my conclusions.

Conclusion

14. For the reasons given above the appeal should be dismissed.

H Miles

INSPECTOR