

Appeal Decision

Site visit made on 5 September 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal Ref: APP/Y3615/W/24/3337625

Barn Platt, Franksfield, Peaslake, Surrey GU5 9SR

- 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 & Mrs Green against the decision of Guildford Borough Council.
 - The application Ref is 23/P/01726.
 - The application sought planning permission for proposed front porch, two storey side extension, replacement roof to include two dormer windows and three rooflights, changes to fenestration, partial rendering and an outdoor swimming pool following demolition of front and rear single storey extensions without complying with a condition attached to planning permission Ref 23/P/01267, dated 14 September 2023.
 - The condition in dispute is No 5 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, AA, B, C and D shall be carried out on the dwellinghouse hereby permitted or within its curtilage.
 - The reason given for the condition is: Having regard to the size of the dwelling approved, the local planning authority wishes to retain control over any future extensions at the property, in order to safeguard the character of the area and the residential amenities of adjoining properties.
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Decision

1. The appeal is allowed and planning permission is granted for proposed front porch, two storey side extension, replacement roof to include two dormer windows and three rooflights, changes to fenestration, partial rendering and an outdoor swimming pool following demolition of front and rear single storey extensions at Barn Platt, Franksfield, Peaslake, Surrey GU5 9SR in accordance with the application Ref 23/P/01726, without compliance with condition number 5 previously imposed on planning permission Ref 23/P/01267 dated 14 September 2023 and subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. During the course of this appeal the "Proposed reforms to the NPPF and other changes to the planning system", the "National Planning Policy Framework: draft text for consultation" and the written ministerial statement entitled "Building the homes we need" have been published. Both main parties have had the opportunity to submit comments on the relevance of these documents to this case. These comments have been taken into consideration.
3. Works were ongoing at the time of my site visit. However, two planning permissions have recently been granted at this site for similar works. There is no evidence before me to confirm which permission has been implemented. As such, for the purposes of this appeal, I cannot be satisfied that permission Ref 23/P/01267 (the planning permission) has been implemented and the appeal is considered on this basis. For clarity, the house labelled as existing on the submitted plans will be referred to as the existing building throughout this decision.
4. Whilst the reason for the condition refers to residential amenity, it is clear from the reason for refusal for application 23/P/01726 and the submitted evidence that the matters in dispute relate to Green Belt and character and appearance.

Main Issues

5. The main issues are whether the condition is reasonable and necessary having regard to the effect of the development on the Green Belt, including the effect on its openness and the character and appearance of the area including the Surrey Hills National Landscape.

Reasons

Background

6. The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) grants planning permission for certain classes of development. 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.
7. There are no particular restrictions relating to properties in the Green Belt in relation to Part 1, Classes A, AA B, C or D. However, due to its location in the National Landscape, the restrictions in the GPDO relevant to article 2(3) land would apply. This would mean that the enlargement of a dwellinghouse by construction of additional storeys under part AA and additions to the roof of a dwellinghouse under part B would not be permitted. As such, these restrictions are unnecessary and unreasonable. Consequently, the decision will go on to consider the effects of Class A, C and D only.
8. Under Class A of the GPDO it would be possible to construct a single storey rear extension 4m in depth. This would be in the location of the playroom and it could be up to around 8m wide. Under Class C it would be possible to construct alterations to the roof of the dwellinghouse which generally do not increase the volume, such as rooflights. Under Class D a porch of up to 3 sqm ground area, up to 3m high could be constructed outside any external door.

Green Belt

9. The National Planning Policy Framework (2023) (Framework) sets out that inappropriate development is by definition harmful to the Green Belt. However, paragraph 154 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).
10. Planning permission was granted for extensions to the property on the basis that they did not result in disproportionate additions over and above the size of the original building. This included that existing single storey additions including a porch, single storey, part width rear extension (playroom) and front conservatory were removed. The officers' report is clear that the proposed development was only acceptable in the Green Belt on the basis that the existing extensions were demolished.
11. Consequently, the council concluded that, subject to the condition restricting PD, the proposed extensions were not inappropriate development. The impacts on openness are implicitly taken into account in this exception so there was no harm to the Green Belt in this regard. Without the condition there is the potential for those elements restricted by PD rights to have an impact on openness and whether the development would be inappropriate development in principle. Therefore, it may be reasonable to restrict PD rights.
12. Alterations to the roof under Class C would generally not increase the scale or bulk of the building. Therefore, they would not result in disproportionate additions or be harmful to openness. As such the restriction of Class C would not be reasonable and necessary having regard to the effect of the development on the Green Belt, including the effect on its openness.
13. However, without the condition, extensions under Class A and D could reinstate and increase the size of a porch and an extension in the position of the playroom. In the circumstances of this case, in combination with the approved extensions, the implementation of these PD limitations could result in disproportionate additions. Furthermore, this could introduce development on parts of the site which would be open, of a scale which, particularly in combination with the permitted extensions could have a harmful effect on openness.
14. Taking into account the specific circumstances outlined above, it is legitimate for the Council to seek to consider whether development under Class A and D would lead to disproportionate additions and the effect of such future development on the Green Belt's 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.
15. Therefore, the restriction of Class A and D is reasonable and necessary having regard to local and national planning policies in respect of the effect of the development on the Green Belt, including the effect on its openness.

Character and Appearance

16. The appeal site is within the Surrey Hills National Landscape, formerly the Area of Outstanding Natural Beauty which is of national importance due to its natural beauty. I am mindful of the statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape. I give great weight to conserving and enhancing the landscape and scenic beauty in this area, and this has the highest status of protection in relation to these issues. Policy P1 of the LP largely follows these principles.
17. There is no evidence before me that the existing building does not benefit from PD rights. Therefore, alterations to the roof under Class C would not introduce any new roof additions significantly over and above those which could be added to the existing building. Any development under Class A and D would be single storey extensions and would be experienced in the context of the existing dwelling. Whilst they could result in an increase in scale from what has already been consented, the location and design that would be required would mean that any additions would not be overly prominent within the surrounding area and would not be harmful to the National Landscape.
18. Therefore, the restriction of Class A, C and D would not be reasonable and necessary with regard to the character and appearance of the area including the Surrey Hills National Landscape and therefore the proposed development would not be contrary to Policy P1 in this regard, the aims of which are set out above.

Other Matters

19. Appeal decisions where conditions restricting PD rights in the Green Belt have been removed¹ have been provided. None of these appear to relate to an original permission where demolition was considered in relation to whether extensions or alterations were disproportionate additions. As such they are not directly comparable to the scheme before me now.

Summary

20. The restriction of Class AA, B and C would not be required with regard to the Green Belt or character and appearance. However, for the reasons set out above the restriction of Classes A and D are reasonable and necessary with regard to the Green Belt. As such an amended condition is required.
21. Therefore, the appeal should be allowed. However, whilst the effect of this decision is that development under Part 1 Classes AA, B and C of the GDPO would no longer be controlled by condition. Nevertheless, the planning permission would be subject to an amended condition, that no development within Part 1 Classes A and D shall be carried out.

Conditions

22. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. There is no information before me about the status of the other conditions imposed

¹ Appeal Ref: APP/R3650/W/20/3256687, APP/ P3420/W/18/3201127, APP/ K3415/W/18/3208240, APP/ Y3615/W/22/3290698

on the original planning permission, nor whether it has been implemented. I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

23. The standard implementation condition is attached, although the date has been altered to reflect that of the original planning permission. In the interests of certainty, a condition to define the plans with which the scheme should accord is attached. Conditions specifying materials along with conditions requiring compliance with the Arboricultural Method Statement and a condition relating to excavation within root protection areas are required in the interests of the character and appearance of the area, including in the case of the latter two, with particular regard to trees.
24. A condition requiring the demolition of existing extensions and an amended condition 5 which requires that no development within Part 1, Classes A and D shall be carried out are required for the reasons set out above.

Conclusion

25. For the reasons given above I conclude that the appeal should succeed. A new planning permission will be granted without the disputed condition but substituting another, and restating those undisputed conditions that are still subsisting and capable of taking effect.

H Miles

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from 14 September 2023
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P22-046-P-001 Rev A, P22-046-P-012 Rev A, P22-046-P-013 Rev A, P22-046-P-111 Rev A, P22-046-P-112 Rev A, P22-046-P-113 Rev A, P22-046-P-114 Rev A, P22-046-P-311 Rev A, P22-046-P-312 Rev A, P22-046-P-313 Rev A and P22-046-P-314 Rev A.
- 3) The development shall not be erected other than in the following materials:
Walls: Render
Roof: Clay roof tiles
Windows: Timber
or such other materials as have been approved in writing by the Borough Council.
- 4) The development hereby approved shall only be implemented by the demolition of the existing rear extension, front porch and front conservatory identified in drawing no. P22-046-P-111 Rev A and shall include the removal of foundations. All of the resultant demolition materials and debris that are not to be reused in the construction of the development hereby permitted shall be removed from the site.
- 5) 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 and D shall be carried out on the dwellinghouse or within its curtilage.
- 6) No demolition, site clearance or building operations shall start on site until the protective fencing and other protection measures shown in the Arboricultural Method Statement APA/AP/2023/020 dated 19th February 2023 have been installed. At all times until the completion of the development, such fencing and protection measures shall be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.
- 7) Excavation within root protection areas shall be undertaken by hand under arboricultural supervision where indicated on the Tree Protection Plan TPP/APA/AP/2023/020 contained within the Arboricultural Report.