



Appeal Decision

Site visit made on 11 February 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 FEBRUARY 2025

Appeal Ref: APP/M3645/W/24/3349191

Rustic Cottage, Broadbridge Lane, Smallfield, Surrey RH6 9RF

- 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 and Mrs Tiwari against the decision of Tandridge District Council.
 - The application Ref is TA/2024/519.
 - The application sought planning permission for extensions and alterations to form additional bedroom, dining room, bathroom, shower and utility room without complying with a condition attached to planning permission Ref T.P.3/No TA 79/322/496R, dated 23 May 1979.
 - The condition in dispute is No 3 which states that: Notwithstanding the provisions of Article 3, Schedule 1, Class 1 of the Town and Country Planning General Development Order 1977, no further extensions or enlargements of the dwelling shall be carried out within the curtilage of this property without the prior permission in writing of the District Planning Authority.
 - The reason given for the condition is: To maintain planning control over this property which is situated in the Metropolitan Green Belt.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town and Country Planning General Development Order 1977 in condition 3 above has been replaced with the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The condition refers to extensions or enlargements of the dwelling and the appeal is thus considered on this basis.
3. The National Planning Policy Framework (the Framework) was revised in December 2024. As this could affect the main issue in this case, the Council and the appellant were invited to make further comments. My decision reflects the latest version of the Framework, and the responses received on it.

Background and Main Issue

4. The Council granted outline planning permission for a replacement house on the appeal site in 1978¹ which was larger than the original dwelling. This permission included a condition restricting the exercise of permitted development (PD) rights to extend or enlarge it. Planning permission² was subsequently granted in 1979 for sizeable extensions and alterations to the house and the Council reimposed the condition restricting PD rights for extensions as condition 3. The justification given

¹ Planning application ref: 78/124 'the 1978 permission'

² Planning application ref: T.P.3/No TA 79/322/496R 'the 1979/original permission'.

by the Council for this condition was to maintain planning control over this property which is situated in the Metropolitan Green Belt.

5. The Council subsequently refused permission to vary the original permission by removing condition 3³. This was because it would be likely to result in inappropriate development in the Green Belt, which is by definition harmful, contrary to Policies DP10 and DP13 of the Tandridge Local Plan Part 2 Detailed Policies 2014 (LP) and the aims of the Framework which seeks to protect the Green Belt and attaches substantial weight to preventing any harm to it.
6. Therefore, the main issue in this appeal is whether condition 3 is reasonable and necessary with particular regard to local and national Green Belt policies.

Reasons

7. The appeal site lies in the Green Belt outside any village. It comprises a detached bungalow within a sizeable plot amongst a small cluster of dwellings along the north side of Broadbridge Lane. There is also a separate rear outbuilding and side car port.
8. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Paragraph 55 of the Framework indicates that planning conditions should not be used to restrict national PD rights unless there is a clear justification to do so. Further, the Planning Practice Guidance (PPG) outlines that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity.
9. The Framework sets out 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. It outlines 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.
10. The original permission precedes the adoption of the LP. Nevertheless, Policies DP10 and DP13 of the LP state that planning permission for inappropriate development will normally be refused unless very special circumstances exist and that the construction of new buildings is inappropriate in the Green Belt, subject to certain exceptions.
11. One exception under Policy DP13 is the extension of buildings where the proposal does not result in disproportionate additions over and above the size of the original building as it existed on 31 December 1968 (for dwellings), or if constructed after that date, as it was built originally. This reflects the exception in paragraph 154(c) of the Framework. A footnote to Policy DP13 clarifies that when assessing proposals for the extension of rebuilt buildings, the Council will consider the original building in comparison with the present building and the proposed extension to determine whether the proposal would result in a disproportionate addition.

³ Application ref: TA/2024/519

12. The house built following the 1978 permission was 10% larger than the original dwelling. The 1979 permission subsequently allowed considerable extensions to the front, rear and side of the building. As such, the dwelling has been significantly increased over and above its original size.
13. Schedule 2, Part 1 of the GPDO sets out PD rights for various development within the curtilage of a dwellinghouse, including for side and rear extensions, with restrictions on their height and length. The appellants seek the removal of condition 3 to restore PD rights to enable the building to be further extended.
14. The replacement house was larger than the original structure and has since been significantly extended. In the absence of condition 3, it would be possible to add substantial further extensions without planning permission. Further enlargements allowed under the GPDO would have the potential to result in disproportionate additions over and above the size of the original building and a significant impact on the openness of the Green Belt. Condition 3 does not necessarily prevent future extensions to the dwelling but is reasonable and necessary to enable the Council to consider the impact of any future proposals for extensions on the Green Belt.
15. I note that that the GPDO does not specifically withdraw PD rights for residential extensions in the Green Belt, the house is one of the smallest in the locality and other properties nearby benefit from PD rights. However, the LP and the Framework seek to safeguard the Green Belt from inappropriate development, and I have found that the removal of condition 3 could result in harm to the Green Belt, a matter which attracts substantial weight.
16. Consequently, I conclude that 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 LP and the aims of the Framework which seeks to protect the Green Belt and attaches substantial weight to any harm to the Green Belt. Thus, I am satisfied that condition 3 is reasonable and necessary.

Conclusion

17. For the reasons given above, the appeal is dismissed.

A Wright

INSPECTOR