



Appeal Decision

Site visit made on 21 September 2022

by **A Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 October 2022

Appeal Ref: APP/D3640/W/21/3286743

Longfield, Broadway Road, Windlesham GU20 6DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Adedapo Adekola against the decision of Surrey Heath Borough Council.
 - The application Ref 21/0546/FFU, dated 13 May 2021, was approved on 14 October 2021 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a first floor side extension, replacement porch, alterations to external materials, replacement windows, internal alterations and installation of a window to the southern side elevation at first floor level.
 - The condition in dispute is No 6 which states that:
Notwithstanding the provisions of Classes A, B, D and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any equivalent classes in any order revoking and re-enacting that Order with or without modification), no new extensions to the dwelling shall be erected unless otherwise agreed in writing by the local planning authority. Any development undertaken under the aforementioned classes between the date of this decision and the implementation of the permission hereby granted shall be demolished and all resultant debris permanently removed from the site prior to the first occupation or substantial completion, (whichever date is sooner) of the development hereby approved.
 - The reason given for the condition is:
Any further extensions to the dwelling would be likely to result in disproportionate additions over and above the size of the original building and to accord with the National Planning Policy Framework.
-

Decision

1. The appeal is allowed and the planning permission Ref 21/0546/FFU for the erection of a first floor side extension, replacement porch, alterations to external materials, replacement windows, internal alterations and installation of a window to the southern side elevation at first floor level at Longfield, Broadway Road, Windlesham GU20 6DA granted on 14 October 2021 by Surrey Heath Borough Council, is varied by deleting condition 6.

Background and Preliminary Matters

2. Planning permission has been granted for the works outlined above, which have since been implemented. The planning permission included a condition removing permitted development rights for further extensions to the appeal dwelling. The Council considers the condition to be necessary as any further extensions would likely result in disproportionate additions over and above the size of the original property. The appellant, however, objects to the condition as they consider it to be unreasonable and unnecessary.

Main Issue

3. The main issue is whether Condition 6 is reasonable and necessary in the interests of protecting the character and appearance of the site and surrounding area.

Reasons

4. The National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so¹. The PPG also advises that conditions of this nature may not pass the test of reasonableness or necessity².
5. The appeal site comprises a detached two-storey property set within a relatively large garden plot. It is accessed via a private driveway off Broadway Road. The property, together with adjoining Greenacre, is set within a heavily landscaped location, set back from the road. From that perspective, views of the site are limited from public vantage points.
6. The permitted development rights which have been removed would, in the main, allow further modest extensions to the original property. However, the relatively secluded location of the appeal site is such that any extensions or alterations carried out under permitted development rights would unlikely be readily visible from public vantage points. Moreover, there is no evidence before me to indicate that in exercising permitted development rights, further extensions would result in disproportionate additions over and above the size of the original building, which would subsequently lead to harm to the character and appearance of the site or surrounding area.
7. I note that the wording of the Council's reason for the condition is the same as that in the Framework's Green Belt policy³. The Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended) places no restrictions on permitted development rights in Green Belts unlike in, for example, national parks. I agree with the appellant that the same permitted development rights typically apply to dwellings within the Green Belt as those which are not. Paragraphs 147-149 of the Framework are only applicable to development that requires planning permission, as is the need to demonstrate very special circumstances.
8. For the reasons given above, I conclude that the removal of the subject condition would not harm the character or appearance of the appeal building or the surrounding area. Accordingly, the relevant tests in the Framework and the PPG have not been met in this case and the condition is neither reasonable nor necessary. There are no relevant development plan policies before me which conflict with this.

Conditions

9. Given that the development has commenced, the originally imposed condition 1 in respect of standard time limits is not necessary and has not been reimposed. The remainder of the original conditions, aside from the disputed condition, are reimposed for clarity and in the interests of protecting living conditions.

¹ Paragraph 54

² Paragraph: 017 Reference ID: 21a-017-20190723

³ Paragraph 149 (c)

Other Matters

10. I note the comments raised by the Parish Council in respect to overdevelopment in the Green Belt, pre-application advice and CIL matters. However, for the reasons set out above, I have found the proposed development not to harm character or appearance. Any pre-application discussions entered into previously are not determinative of the proposal before me. Any CIL related issues are a matter for the Council. Therefore, these matters do not lead me to change my conclusion in respect of the main issue.

Conclusion

11. I conclude that the disputed condition is not reasonable or necessary in the interests of the character or appearance of the site or surrounding area. I therefore conclude that the appeal should be allowed. I will vary the original permission by deleting the disputed condition.

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development to which this permission relates shall be carried out in accordance with the following plans:

- 1.1 Rev A
- 1.2 Rev 00
- 1.3 Rev 00

All received 13/05/2021.

2. The materials used in the external finishes of the development to which this permission relates shall be those listed on the application form and the approved plans unless otherwise agreed in writing by the local planning authority.
3. Prior to first occupation of the development to which this permission relates, the new window at first floor level in the southern flank elevation shall be completed in obscure glazing with any openings to be at high level only (greater than 1.7m above finished floor level). The windows shall be permanently retained as such thereafter unless otherwise agreed in writing by the local planning authority.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no new windows or other openings shall be formed at first floor level or above in the northern or southern flank elevations of the dwelling unless otherwise agreed in writing by the local planning authority.