



# Appeal Decision

Site visit made on 4 July 2022

by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 August 2022

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## Appeal Ref: APP/Y3615/W/22/3290698

### Pilgrim Gardens, Sandy Lane, Guildford GU3 1HF

- 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 A Farquhar against the decision of Guildford Borough Council.
  - The application Ref 21/P/02017, dated 17 September 2021, was approved on 15 December 2021 and planning permission was granted subject to conditions.
  - The development permitted is "Removal of condition 8 (removal of permitted development rights) of planning application 96/P/0063 approved 28/05/1996 to reinstate permitted development rights".
  - The condition in dispute is No 4 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, Class A shall be carried out on the dwellinghouse(s) hereby permitted or within their curtilage".
  - The reason given for the condition is: "In order to safeguard the Green Belt, Surrey Hills Area of Outstanding Natural Beauty and Area of Great Landscape Value".
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## Decision

1. The appeal is allowed, and the planning permission Ref 21/P/02017 for "Removal of condition 8 (removal of permitted development rights) of planning application 96/P/0063 approved 28/05/1996 to reinstate permitted development rights" at Pilgrim Gardens, Sandy Lane, Guildford GU3 1HF, granted on 15 December 2021 by Guildford Borough Council, is **varied** by deleting condition No 4.

## Background and Main Issue

2. Planning permission was granted in 1996 for the demolition of an existing dwelling, shed and glasshouse, and construction of a replacement house with detached garage and enclosed swimming pool. The Council subsequently approved a Section 73 application seeking the removal of a condition restricting the use of permitted development rights afforded by Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order).
3. This decision was however subject to new conditions, including one removing permitted development rights for alterations and extensions to the dwellinghouse. The appellant is contesting the imposition of this condition on the grounds that it does not meet the six tests as set out in paragraph 56 of the National Planning Policy Framework (the Framework).
4. The main issue is whether the disputed condition is reasonable and necessary, having particular regard to the openness and purposes of the Green Belt and

the character and appearance of the area, including the Surrey Hills Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV).

### **Reasons**

5. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The national Planning Practice Guidance (PPG) [Paragraph: 017 Reference ID: 21a-017-20190723] adds that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.
6. The appeal site lies in an area of rural character, which forms part of the Metropolitan Green Belt, the Surrey Hills AONB and AGLV. It comprises a large detached dwellinghouse, garage and barn set within spacious grounds, but their visual prominence within the public realm is softened by mature vegetation sited in proximity to the site's boundaries.
7. Concerns have been raised by the Council regarding the effect that extensions constructed under Class A could have on the openness of the Green Belt. However, the GPDO does not limit the use of permitted development rights in Green Belts. Whilst some restrictions may have been considered reasonable and necessary at the time of the original application, I have been presented with limited information, other than the property's location within the Green Belt, to substantiate the removal of permitted development rights afforded by Class A. The available evidence therefore provides no clear justification for such restrictions.
8. As set out in the GPDO, certain types of development are not permitted on article 2(3) land, which includes AONBs. Whilst the appeal property sits on high ground and lies within a sensitive location in the Surrey Hills AONB, the alterations and extensions which could be carried out under Class A would remain relatively limited. Having regard to the restrictions which already apply to article 2(3) land and the available evidence, I therefore find that there is also no clear justification for removing the use of permitted development rights afforded by Class A in that respect.
9. For the foregoing reasons, I conclude that condition No 4 is neither reasonable nor necessary to protect the openness and the purposes of the Green Belt, but also to conserve and enhance the landscape and scenic beauty of the Surrey Hills AONB and AGLV.

### **Conclusion**

10. Given the above, I conclude that the planning permission should be varied as set out in the formal decision.

*S Edwards*

INSPECTOR