
Appeal Decision

Site visit made on 6 December 2016

by Mike Hayden BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 January 2017

Appeal Ref: APP/E3715/W/16/3158926

Glebe Farm Barn, Birdingbury Road, Bourton-on-Dunsmore CV23 9RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Michael Chicken against the decision of Rugby Borough Council.
 - The application Ref R16/1677, dated 26 July 2016, was refused by notice dated 26 August 2016.
 - The application sought planning permission for conversion of redundant barn to form a two-storey residential dwelling with side extension without complying with a condition attached to planning permission Ref 878, dated 14 May 2010.
 - The condition in dispute is No 3 which states that: Unless otherwise agreed in writing, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 or any order revoking or re-enacting that Order, no development shall be carried out which comes within Classes (A) (B) (C) (D) (E) (F) (G) and (H) of Schedule 2 and Part 1, and Schedule 2 Part 2 of the Order without the prior written permission of the Local Planning Authority.
 - The reason given for the condition is: In the interests of the amenities of the locality.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of redundant barn to form a two-storey residential dwelling with side extension at Glebe Farm Barn, Birdingbury Road, Bourton-on-Dunsmore CV23 9RA in accordance with the application Ref R16/1677 dated 26 July 2016, without compliance with condition numbers 1 and 3 previously imposed on planning permission Ref 878 dated 14 May 2010 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:
 - 3) 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 development shall be carried out which comes within Classes A and E of Part 1 to Schedule 2 of the Order without the prior written permission of the Local Planning Authority.

Application for costs

2. An application for costs was made by Mr Michael Chicken against Rugby Borough Council, which is the subject of a separate Decision.

Procedural Matters

3. I have used the description of development contained in the original planning permission for the site, given that this includes both the conversion of the barn and the side extension, which appears to be the scheme that has been implemented.
4. The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 has been updated since the 2010 planning permission. However, Condition 3 applies to any order revoking or re-enacting that Order. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO) revoked the 2008 Order. Therefore, I have considered this appeal in the light of the relevant Classes of permitted development as defined in the 2015 GPDO.

Main Issues

5. The main issue in this appeal is whether or not condition 3 is reasonable and necessary to prevent inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.

Reasons

6. The appeal property is located in the Green Belt as defined on the Proposals Map of the Rugby Borough Council Local Development Framework Core Strategy (2011) (the Core Strategy). Policy CS1 of the Core Strategy states that new development in the Green Belt will only be permitted where national policy allows. Paragraph 89 of the National Planning Policy Framework (the Framework) regards the construction of new buildings as inappropriate in the Green Belt, subject to a limited number of exceptions. One of the listed exceptions is the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building.
7. The appeal building was extended when it was converted to a residential dwelling. According to the Council's figures this extension represented a 53% increase in the cubic content of the original building. The Council considers that a 30% increase in floor area is reasonable and anything over and above this would result in a disproportionate addition to the building. I have no specific evidence on the increase in floor area accounted for by the existing extension. However, given that it was allowed, it would be reasonable to conclude that it did not exceed the 30% guideline.
8. The Council alleges that the removal of the Condition 3 would result in inappropriate development in the Green Belt, by permitting additions in excess of a 30% increase in floor area. The condition removes a wide range of permitted development rights under the 2015 GPDO for additions and alterations to dwelling houses. However, Classes C, D, F, G and H of Part 1 include relatively small scale additions and alterations, such as roof lights, porches, hard surface areas, chimneys, flues and microwave antenna. Using the 30% guideline, none of these either individually or cumulatively would be likely to result in disproportionate additions over and above the size of the original building, even taking account of the existing extension. Class B of Part 1 would permit an enlargement of the roof on the rear elevation of the dwelling by up to 50 cubic metres, including dormer windows, but this would be

unlikely to add significantly to the overall floor area of the building. Classes A to F of Part 2 to Schedule 2 comprise a range of minor operations, including walls and fences, means of access to the highway, electric vehicle charging points and CCTV cameras. None of these would amount to disproportionate additions to the size original dwelling. Therefore, permitted development within Classes B, C, D, F, G and H of Part 1 and Classes A to F of Part 2 would be unlikely to amount to inappropriate development in the Green Belt. Accordingly, there appears to be limited justification for inclusion of these Classes within Condition 3 to avoid harm to the Green Belt.

9. However, permitted development rights under Classes A and E of Part 1 of Schedule 2 of the GPDO would allow single storey extensions of up to 8 metres in depth at the rear of the appeal dwelling, covering up to 50% of the total area within the curtilage of the building, and additional buildings of up to 4 metres in height to be erected covering up to 50% of the curtilage. Whilst 8 metre extensions would be subject to prior approval, this would only be in respect of their impact on the amenity of adjoining properties. Given the isolated position of the appeal property this would be unlikely to be a limitation.
10. Additions of this scale would far exceed a 30% increase in floor area of the original building applied by the Council to assess disproportionality. I note from a previous appeal decision on this site (Ref: APP/E3715/D/16/3142423), that the size of the original building was disputed by the appellant. Evidence to substantiate this has not been placed before me in this appeal. However, the Inspector's conclusions in that case found that the proposal, which was for a single storey rear extension of approximately 8 metres in length, would be disproportionate.
11. I recognise that the application the subject of this appeal does not propose any such additions. However, it is evident from the planning history of the site that this is a possibility. Without a condition removing permitted development rights under Classes A and E of Part 1 of Schedule 2 of the GPDO, extensions and additional buildings would be permitted within the curtilage of the appeal property which would amount to disproportionate additions over and above the size of the original building. As such this would permit inappropriate development to take place.
12. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I note that the Inspector in the previous appeal concluded that an 8 metre length rear extension would result only in minimal loss of openness. However, Classes A and E of paragraph 88 of Part 1 of Schedule 2 of the GPDO permit significantly greater additions than this. Moreover, the Framework expects that substantial weight should be given to any harm to the Green Belt.
13. I have considered the provisions in the Framework and the Planning Practice Guidance (PPG) regarding the use of conditions. Paragraph 200 of the Framework allows conditions to be used to restrict permitted development rights where there is a clear justification. Paragraph 017 of the PPG (Ref: ID: 21a-017-20140306) states this should only be in exceptional circumstances.
14. Although the reason for condition 3 does not mention the Green Belt, it does refer to the amenities of the locality. One of the essential characteristics of the Green Belt as defined in paragraph 79 of the Framework is its openness. One

of its five purposes listed in paragraph 80 of the Framework is to safeguard the countryside from encroachment. The area surrounding the appeal site is characterised by open countryside. This is a local amenity which the Green Belt serves to protect in and around Bourton-on-Dunsmore and which the appeal site itself benefits from. The wording of the reason is inclusive of the amenities of the locality, which in this case includes the characteristics of the Green Belt. Accordingly, the reason for the condition provides a clear justification for the removal of permitted development rights on the appeal site where this would cause harm to the Green Belt. The potential harm to the Green Belt which could arise as a result of development permitted under Classes A and E amounts to exceptional circumstances to support the removal of permitted development rights for these Classes.

15. On this basis I conclude that, the removal of permitted development rights under Classes B, C, D, F, G and H of Part 1 and Classes A to F of Part 2 of Schedule 2 to the GPDO within Condition 3 is unnecessary in this case to prevent inappropriate development in the Green Belt as defined in paragraph 89 of the Framework. Therefore the condition as drafted is unreasonable. However, I also conclude that the removal of permitted development rights under Classes A and E of Part 1 of Schedule 2 is necessary to prevent inappropriate development and therefore harm to the Green Belt. This could be addressed by means of a revised condition, more precisely drawn to define the permitted development likely to cause harm to the Green Belt and to avoid a blanket removal of permitted development unlikely to otherwise meet the tests of reasonableness or necessity in this case.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed. In accordance with Section 73(2)(a) of the Act I have granted a new planning permission without the disputed condition 3 but substituting it with one removing permitted development rights under Classes A and E of Part 1 of Schedule 2 of the GPDO which could otherwise lead to inappropriate development in the Green Belt. This would meet the tests and expectations for conditions set out in paragraphs 200 and 206 of the Framework and in the PPG.
17. The guidance in the PPG also makes clear that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have removed condition 1 attached to planning permission Ref 878, given that the permission has already been implemented. However, as I have no information before me about the status of the other conditions imposed on the original planning permission, I have retained them in case any remain relevant in whole or in part.

M Hayden

INSPECTOR