
Appeal Decision

Site visit made on 10 January 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 26 January 2017

Appeal Ref: APP/C3430/Q/16/3155857

Bridge House (formerly known as 'The Ramlings'), Greensforge Lane, Stourton, Stourbridge DY7 5BA

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
 - The appeal is made by Mr Peter Plevy against the decision of South Staffordshire Council.
 - The development to which the planning obligation relates is change of use of existing building to residential annexe and office.
 - The planning obligation, dated 16 November 2006, was made between South Staffordshire District Council and Christopher Battison and Lesley Battison.
 - The application Ref 15/00982/S106, dated 19 October 2015, was refused by notice dated 1 March 2016.
 - The application sought to have the planning obligation discharged.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the obligation no longer serves a useful purpose and so should be discharged.

Reasons

3. The appeal concerns an outbuilding within the curtilage of the host property Bridge House. The outbuilding benefits from planning permission (*Ref: 06/00772/COU dated 16 November 2006*) to be used as a residential annexe and office. Two conditions were attached to this permission. Firstly, that "*the office area within the building shall be used only incidental to and in connection with the dwelling for the life time of the development*"; and secondly that "*the granny flat hereby approved shall be occupied by only relatives, dependents or members of the household staff of the occupants of the existing house*". The Council says that the outbuilding was extended shortly afterwards and without planning permission, but it does not dispute that it is lawful in its current state.
 4. The thrust of the appellant's case is that the obligation should not have been imposed in the first place for two reasons. Firstly, because it is a duplication of the planning conditions attached to the permission in respect of restricted occupancy. Secondly, that such a restriction was unnecessary at the outset because the planning application concerned the reuse of a building and not a new construction, and as such it was not inappropriate development as defined
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- by Paragraph 90 of the National Planning Policy Framework (the Framework) and its predecessor PPG2. I disagree on both points.
5. The conditions attached to the planning permission restrict the occupancy of the outbuilding. The conditions do not prevent the site from being severed from Bridge House and sold or let as a separate planning unit. That is the purpose of the covenant in the obligation. Thus the restrictive covenant in the obligation places a different constraint on the use of the outbuilding, and is not merely a repetition of the planning conditions.
 6. The Framework's inclusion of reuse of buildings as not inappropriate development is predicated on the fact that such reuse must preserve openness, and not conflict with the purposes of including land in the Green Belt. Paragraph 79 of the Framework states that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Paragraph 80 of the Framework states that the Green Belt serves to assist in safeguarding the countryside from encroachment.
 7. The effect of discharging the obligation would be to allow the distinct and realistic possibility that the outbuilding would be divorced from Bridge House and would become its own separate planning unit. I note the outbuilding can be separately accessed from Bridge House and it would by virtue of the planning conditions continue to be occupied only by persons associated with host property. Nevertheless, I find that the act of physical separation and creation of an additional dwelling(s) and curtilage, and the inevitable accompanying domestic paraphernalia which would follow, would fundamentally alter the character of the site. It would not preserve the openness of the Green Belt and would not prevent urban sprawl in the countryside.
 8. On the evidence before me, I find that the reuse of the building without the obligation would fail to protect the fundamental aims of the Green Belt as advocated by paragraphs 79 and 80 of the Framework, and as such would be inappropriate development in the Green Belt. No other circumstances are before me on which could be considered to amount to very special circumstances necessary to outweigh the harm by reason of inappropriateness. In my judgement, the obligation remains valid and serves a useful purpose and it accords with paragraph 203 of the Framework. I do not find therefore that the obligation should be discharged.

Other Matters

9. My attention is drawn to an appeal decision (*Ref: APP/G5180/Q/15/3131661 for the discharge of an obligation*) where the Inspector allowed the appeal in the Green Belt. Notwithstanding that the issues inherently centred on agriculture, the Green Belt matters related only to occupancy of the unit concerned, and not the physical separation of land or any other operational development. As such I draw little direct comparison between the two but in any event, I have made my decision on the evidence before me. The appellant has also raised concerns regarding the validity of the planning conditions given that the original change of use application was for a reuse of the building. The validity and adequacy of the planning conditions are not matters before me. Because the appeal does not turn on the accuracy of the drawings, I have not considered this matter further in my decision.

Conclusion

10. For the reasons given above, I conclude therefore that the appeal should be dismissed.

R Allen

INSPECTOR