
Appeal Decision

Site visit made on 28 March 2017

by S J Buckingham BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 22nd May 2017

Appeal Ref: APP/P0240/W/16/3162027

Random House, Private Road, Barton-le-Clay, Bedfordshire, MK45 4LE

- 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 Raza Shah against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/02327/FULL, dated 16 May 2016, was approved on 29 September 2016 and planning permission was granted subject to conditions.
 - The development permitted is erection of a single side extension and roof alterations with rear dormer windows.
 - The condition in dispute is No 2, which states that: *No development shall commence until the unauthorised extensions have been demolished in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme, which shall be submitted within 2 months of the date of this permission shall include details of the method of demolition and timescale for the completion of demolition works. The subsequent demolition shall take place in accordance with the approved scheme and before the 7th March 2017.*
 - The reason given for the condition is: *In the interests of the visual amenities of the area and to ensure the removal of all unauthorised works prior to the commencement of development (Section 7, NPPF).*
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Decision

1. The appeal is allowed and the planning permission Ref CB/16/02327/FULL for erection of a single side extension and roof alterations with rear dormer windows at Random House, Private Road, Barton-le-Clay, Bedfordshire, MK45 4LE, granted on 29 September 2016 by Central Bedfordshire Council, is varied by deleting condition No 2.

Main Issue

2. The main issue is whether the condition is necessary, relevant to the development to be permitted and reasonable in all other respects in respect to the requirement to demolish the existing unauthorised extensions.

Reasons

3. The appeal building sits within the South Bedfordshire Green Belt and the Chilterns Area of Outstanding Natural Beauty. It has been extensively remodelled and extended from its original 1960's form through a series of unauthorised extensions, which are the subject of an enforcement notice, upheld at appeal¹ requiring their removal by 7 April 2017.

¹ Ref APP/P0240/C/15/3134826

4. The permission approved in September 2016 was for the modest extension of the original form of the building, reflecting a proposal approved in 2011 but not implemented. Condition No 2 of the permission requires the removal of the unauthorised extensions before development commences.
5. The appellant has stated that this condition is not necessary in planning terms, as the removal of the extensions is the subject of an enforcement notice. I note the Council's concerns that without such a condition, and with no control over the completion of the development, a situation could arise in which it would not be possible to secure the removal of the unauthorised extensions to the original building. However, while the planning permission would override the notice to the extent that its requirements were inconsistent with the planning permission, the notice would not cease to have effect altogether. It would therefore remain open to the Council to secure compliance with the notice.
6. I conclude therefore that the condition is not necessary in the interests of making the development acceptable in planning terms.
7. The appellant also argues that the condition is not relevant to the planning permission, as it should not be imposed to remedy a pre-existing problem or issue that is not created by the proposed development. As the approved extensions are limited to a side extension and roof alterations with rear dormers, and as the unauthorised extensions go beyond this to include extensive remodelling of the building, I conclude that the condition seeks to address other matters and is not wholly related or relevant to the planning application.
8. On this basis therefore, it is also difficult to conclude that the condition could be considered reasonable in all other respects.

Conclusion

9. For the reasons given above therefore, and taking into account all matters raised, I conclude that the appeal should be allowed. I will vary the planning permission by deleting the disputed condition.

S J Buckingham

INSPECTOR