
Appeal Decision

Site visit made on 6 June 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 29 June 2017

Appeal Ref: APP/N0410/W/17/3169308

1A Clevehurst Close, Stoke Poges, Slough SL2 4EP.

- 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 conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Kuba Diller against the decision of South Bucks District Council.
 - The application Ref 16/02182/RVC, dated 16 November 2016, was refused by notice dated 11 January 2017.
 - The application sought planning permission for a detached dwelling and creation of new vehicular access without complying with condition 9 attached to planning permission Ref 05/00096/FUL, dated 10 March 2005.
 - The condition in dispute is No 9 which states that: *"Notwithstanding the provisions of Article 3 and Classes A, B & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting that Order), no enlargement, improvement or other alteration (including the erection of a garage, stable, loosebox or coach-house within the curtilage) of or to the dwellinghouse the subject of this permission, shall be carried out without planning permission having first been obtained via the submission of a planning application to the District Planning Authority; nor shall any building or enclosure required for a purpose incidental to the enjoyment of the said dwellinghouse as such be constructed or placed on any part of the land covered by this permission without such planning permission having been obtained"*.
 - The reason given for the condition is: *"In the opinion of the District Planning Authority, the nature and density of the layout requires strict control over the form of any additional development which may be proposed in the interests of maintaining a satisfactory residential environment. (Policies EP3 and H9 of the South Bucks District Local Plan (adopted March 1999) refer"*.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling and creation of new vehicular access at 1A Clevehurst Close, Stoke Poges, Slough SL2 4EP in accordance with the application Ref 16/02182/RVC dated 16 November 2016 without compliance with condition 9 previously imposed on the planning permission Ref 05/00096/FUL, dated 10 March 2005.

Procedural Matter

2. Condition 9 refers to specific provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). This has been replaced by the Town and Country Planning (General Permitted Development) (England) Order 2015 on 15 April 2015 (the GPDO).
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Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary to prevent the development from causing unacceptable harm to the character and appearance of the area.

Reasons

4. The "*Planning Practice Guidance*" (PPG) includes advice that when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls (reference ID: 21a-001-20140306). A condition attached to this planning permission removed permitted development rights for Classes A, B and E of Part 1 of Schedule 2 of the GPDO.
5. The PPG also advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the GPDO, so that it is clear exactly which rights have been limited or withdrawn. Blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity (reference ID: 21a-017-20140306).
6. The appeal property is a large detached residence located on the south side of Clevehurst Road. The area comprises similarly proportioned dwellings occupying generous plots. According to the Council, the dwelling was the subject of negotiation and amendments during the course of its consideration to address concerns that it would have a cramped appearance. Whilst that maybe so, there is nothing of any substance before me to explain exactly how the retention of these restrictions would safeguard the character and appearance of the area.
7. Classes A and B of Part 1 Schedule 2 of the GPDO remove the right to; enlarge, improve or alter a dwelling (Class A) or enlarge a dwelling by way of a roof addition or alteration (Class B). Although the building's siting within the curtilage may well impose some practical limitations on the size of any extension that could be carried out, Class A would permit a rear extension which could extend the length of the dwelling. However, any such extensions would be relatively modest in scale and would not be visible from the public realm. With cognisance to the restrictions under Class B and the amount of separation to neighbouring residential properties, I do not consider that any alterations to the roof could reasonably be said to have an unacceptable effect on the street scene or the character of the area.
8. Class E of Part 1 Schedule 2 of the GPDO (Class E) provides permitted development rights for outbuildings, storage containers and other structures within the curtilage of a dwelling subject to certain exclusions and conditions.

Although not extensive, I consider that the defined curtilage of the appeal property is sufficiently large to accommodate structures of the type and scale permitted by Class E without any significant risk of harm to the character and appearance of the building itself. Indeed, on my visit I observed that although other gardens are equally as large, the incidental buildings and structures that I could see were commensurate in scale and appearance with normal garden buildings.

9. Based on the foregoing, I conclude that exceptional circumstances for the removal of permitted development rights under Classes A, B and E have not been demonstrated and it is not reasonable or necessary to remove these rights to protect the character and appearance of the area.

Conclusion

10. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector