
Appeal Decision

Site visit made on 26 June 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 18th July 2017

Appeal Ref: APP/R0660/W/17/3171265

Heathfield House, Bollington Lane, Nether Alderley SK10 4TB

- 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 Andrew Kay against the decision of Cheshire East Council.
 - The application Ref 16/3687M, dated 28 July 2016, was refused by notice dated 26 October 2016.
 - The application sought planning permission for conversion of disused MoD building to dwelling without complying with conditions attached to planning permission Ref 82411P, dated 4 October 1995.
 - The conditions in dispute are Nos 7 and 8 which state that:
 - *7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no development (as defined by section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) A to F of Part 1 Schedule 2 of the Order shall be carried out.*
 - *8. Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no extension, garage, carport, shed or other structure shall be erected or added to the dwelling(s) identified in the application site.*
 - The reasons given for the conditions are:
 - 7. To ensure continued control over the extent of further building within the site.*
 - 8. To ensure continued control over the extent of further building within the site.*
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of disused MoD building to dwelling at Heathfield House, Bollington Lane, Nether Alderley SK10 4TB in accordance with the application Ref 16/3687M dated 28 July 2016, without compliance with condition numbers 7 and 8 previously imposed on planning permission Ref 82411P dated 4 October 1995 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Application for Costs

2. An application for costs made by Mr Andrew Kay against Cheshire East Council is the subject of a separate Decision.

Main Issues

3. The conditions in dispute relate to the removal of permitted development rights. The appellant seeks to remove these conditions. Notwithstanding the

reasons given for the conditions set out in the decision notice ref 82411P, the Council state that the reason was in order to protect the openness of the Green Belt due to the siting of the property.

4. Given the above, the main issue in this appeal is whether or not the conditions are necessary in the interests of protecting the openness of the Green Belt.

Reasons

5. The National Planning Practice Guidance (NPPG) states that '*conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances*'.¹
6. The appeal property is a converted MoD building, which was granted planning permission under ref 82411P in 1995. Since the building was converted, the Council has granted planning permission for a two-storey extension and the change of use of woodland into a garden area to allow the construction of a driveway and a garden store. From the details before me, the building has been significantly altered, with very little reference to the original building remaining. There is no evidence before me that the building is statutorily or locally listed or that any further extensions or outbuildings that could be constructed under permitted development rights would have any significant harm on the heritage of the original building.
7. The Council contend that as the dwelling is set within extensive grounds, approximately 0.5 hectares, there is the potential for a range of extensions and outbuildings to be constructed under permitted development rights that would harm the openness of the Green Belt. However, large dwellings set within extensive grounds are not uncommon with the Green Belt; indeed, many other properties within the vicinity of the site are considered as such. There is no evidence before me that the openness of the Green Belt would be any more sensitive to development carried out on the site under those permitted development rights that the disputed conditions remove than other sites within the Green Belt.
8. I understand the Council's concern regarding potentially uncontrolled development in the Green Belt. Furthermore, national and local policies seek to protect the openness of the Green Belt, although extensions and alterations to dwellings are not inappropriate development. However, the Town and Country Planning (General Permitted Development) (England) Order 2015 places no restrictions on permitted development rights in Green Belts as it does with other designated areas such as National Parks.
9. I find therefore that it has not been demonstrated that the circumstances of the appeal property, its heritage and its Green Belt location are exceptional. Accordingly, both condition 7 and 8 are neither reasonable nor necessary in the interests of protecting the openness of the Green Belt and as such fail the tests set out in paragraph 206 of the Framework.
10. I have had regard to the appeal decisions referred to me by the appellant² and note that the Inspectors similarly found that such conditions were neither necessary nor reasonable.

¹ Paragraph 21a-017-20140306

² Appeal refs APP/V1505/A/12/2185169 and APP/R0660/D/16/3163338

Other Matters

11. I have had regard to the list of other developments granted planning permission by Macclesfield Borough Council which had similar conditions attached. However, the details of the Council's consideration of these developments are limited and therefore I cannot be certain that these did not represent exceptional circumstances or that the Council imposed such conditions as a matter of course.

Conclusion

12. For the reasons given above I conclude that the appeal is allowed.

Alexander Walker

INSPECTOR