



Appeal Decision

Site visit made on 28 November 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 13th December 2017

Appeal Ref: APP/T3725/W/17/3181670

York Barn, Pagets Lane, Bubbenhall, Coventry CV8 3BJ

- 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 E Lenton against the decision of Warwick District Council.
- The application Ref W/17/1022, dated 2 June 2017, was approved on 28 July 2017 and planning permission was granted subject to conditions.
- The development permitted is removal of condition 4 (permitted development rights) of permission W/92/0012 (Conversion of a barn to a detached dwelling, outbuildings to a studio/workshop and store) to remove the condition limited permitted development rights.

The condition in dispute is No 1 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development shall be undertaken under Schedule 2 Part 1 Classes A, B, C, D, E and G shall be erected or constructed without the express grant of planning permission.

- The reason given for the condition is: To prevent harm being caused to a traditional rural building through inappropriate and uncontrolled development and to ensure that the aims of the green belt are respected in accordance with Saved Policies RAP7 and DP1 of the Warwick District Local Plan (1996-2011) and Emerging Policies BE1, BE4 and DS19 of the Emerging Warwick District Local Plan (2011 – 2029).
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Decision

1. The appeal is dismissed.

Planning Policy

2. Since the submission of the appeal the Council adopted the Warwick District Local 2011-2029 (2017). This now forms part of the development plan for the district and supersedes Policies DP1 and RAP7 of the Warwick Local Plan 1996-2011 (2007). I must base my decision on the policies from the development plan prevailing at the time of determination. Moreover, the appellant is aware of these changes and has had the opportunity to comment upon them. In any event the aims of the relevant Policies are not so materially different from those referred to in the Council's decision notice, such that they would have influenced the outcome of the appeal. Consequently, no prejudice has been caused to the appellant's case.

Background and Main Issue

3. An application was made to the Council under section 73 of the Town and Country Planning Act 1990 to develop land without compliance with condition No 4 attached to Council planning permission reference W/92/0012 which

stated notwithstanding the provisions of the Town and Country Planning General Development Order 1988, no development shall be carried out which comes within Part 1 (except class F) and Part 2 (except class C) of the Second Schedule of this Order without the prior permission of the District Planning Authority.

4. In response to the application the Council granted a new planning permission for the same development subject to condition No 1 which states Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development shall be undertaken under Schedule 2 Part 1 Classes A, B, C, D, E and G shall be erected or constructed without the express grant of planning permission.
5. I acknowledge this was not the outcome the appellant wanted. However, the Council were within their rights to do this. Whilst I have considered the appellants comment's with regard to the enforceability of condition No 4 attached to Council planning permission reference W/92/0012 an appeal against that condition is not before me and the appeal form makes clear that the appeal before me is against condition No 1 attached to Council planning permission reference W/17/1022.
6. Thus, the main issue is whether condition No 1 attached to planning permission reference W/17/1022 is necessary or reasonable having regard to whether exceptional circumstances exist to justify the removal of permitted development rights.

Reasons

7. The Planning Practice Guidance¹ states 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. Furthermore, it states the scope of such conditions needs to be precisely defined.
8. I acknowledge the appeal decisions² where it has been found that exceptional circumstances do not exist which justify the removal of permitted development rights. However, the full details of those cases are not before me and I have assessed the appeal with regard to the bespoke site specific circumstances which are not comparable.
9. In this case, the appeal dwelling is an attractive converted farm building set in a large plot on a narrow rural lane set in a group of spaciouly arranged buildings in the open countryside and the Green Belt.
10. Whilst I acknowledge the appeal building is not listed and is not within a conservation area, its agricultural heritage is noticeable through its openings, scale, form and detailing. In my view, alterations to form new openings or extensions could have the potential to erode the appeal buildings heritage value and overall pleasant agricultural appearance.
11. Furthermore, the appeal dwelling occupies a large plot, whilst I acknowledge the rural landscape has no formal designation, this does not mean it is not sensitive to development. Even though I note the existing boundary

¹ Paragraph: 017 Reference id:21a-017-21040306

² Appeal reference APP/T3725/A/13/2196633, APP/M9496/A/14/2219276 & APP/N3020/A/14/2225781

treatments, any building erected within the plot would be visible from the lane and would be likely to be visible across the rural landscape to the south. In my view there is a significant risk that outbuildings would have the potential to be prominent in the rural landscape, urbanise the pleasant rural character of the lane and harm the openness and character of the Green Belt.

12. That said, in this case, I find there are exceptional circumstances which justify the imposition of a planning condition restricting permitted development rights. Condition No 1 explicitly references which permitted development right are removed and is sufficiently precise.
13. I therefore find the condition is necessary and reasonable and its imposition is in accordance with the development plan, specifically Policies BE1, BE4 and DS19 of the LP which seek to ensure good design, safeguard the character and appearance of an area and preserve the openness of the Green Belt.

Conclusion

14. For the reasons given having had regard to all other matters raised I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR