
Appeal Decision

Site visit made on 24 June 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/J3720/W/19/3225906

Yarningale House, Yarningale Lane, Yarningale Common CV35 8HW

- 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 Adam Millward against the decision of Stratford on Avon District Council.
 - The application Ref 19/00229/FUL, dated 22 January 2019, was approved on 14 March 2019 and planning permission was granted subject to conditions.
 - The development permitted is alterations to existing side extension and front garage, replacement of front porch with single storey front extension and installation of balcony to existing rear extension.
 - The conditions in dispute is No 4 which states that:
"Notwithstanding the provisions of Article 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification), no development covered by Part 1, Class A & E of Schedule 2 to that Order shall be carried out without planning permission granted by the Local Planning Authority".
 - The reason given for the condition is:
"To prevent harm being caused to the openness of the West Midlands Green Belt in accordance with the provisions of Policies CS.1, CS.5 and CS.10 of the adopted Stratford-on-Avon Core Strategy (2011-2031)".
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Decision

1. The appeal is allowed and the planning permission Ref 19/00229/FUL for alterations to existing side extension and front garage, replacement of front porch with single storey front extension and installation of balcony to existing rear extension at Yarningale House, Yarningale Lane, Yarningale Common CV35 8HW granted on 14 March 2019 by Stratford on Avon District Council, is varied by deleting condition 4.

Procedural Matter

2. I have, for completeness, used the appellant's full name, which is set out on the appeal form, in my decision.

Background and Main Issue

3. Yarningale House lies in the West Midlands Green Belt. It is a large detached two-storey property set in an extensive garden on the outskirts of the village of Claverdon. A single-storey garage is attached to the north-western side of the house. This is linked to a covered car-port, which in turn is attached to a block of outbuildings. Planning permission was granted under ref 19/00229/FUL for the demolition of the car-port and remodelling of the outbuildings to provide a

habitable side extension with a linked corridor. The scheme also includes re-modelling of the roof over the existing garage; replacement of an existing glazed front porch with a more solid extension; and a balcony over an existing flat-roof at the rear.

4. Even though the main parties dispute how much the original dwelling has been enlarged in the past, the proposals do not involve any further increase in the footprint of the building. The Council do not dispute the appellant's point that the development approved by the Council would result in a reduction in the volume of the current building. As such, the development would not result in a disproportionately larger dwelling and was not considered to constitute inappropriate development in the Green Belt or harm its openness. Consequently, the development was considered to comply with Policy CS.10 of the Stratford-on-Avon District Core Strategy 2011 – 2031 (the Core Strategy), which addresses development in the Green Belt.
5. The appellant considers that there are no justifiable reasons why the Council have imposed a condition restricting permitted development rights for the property. It is their view that the disputed condition does not satisfy the 'necessary' and 'reasonable in all other aspects' tests set out in paragraph 55 of the National Planning Policy Framework (the Framework).
6. Thus, the main issue is whether the condition is reasonable or necessary to prevent harm being caused to the openness of the West Midlands Green Belt.

Reasons

7. Paragraph 55 of the Framework advises that planning conditions should be kept to a minimum, and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance (the PPG) says 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.
8. Permitted development rights to extend dwellings and construct domestic outbuildings under the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) apply in the Green Belt. Had the Government wanted to withdraw or restrict permitted development rights for householder developments in the Green Belt it could have done so, as it has done with other locations such as Conservation Areas and National Parks. The fact that it hasn't is evidence that it considers the implementation of permitted development rights to be acceptable in a Green Belt location.
9. The appeal dwelling could have been extended, or outbuildings constructed, in accordance with the conditions and limitations set by the GPDO prior to the grant of the planning permission in question. These rights could still be exercised if the planning permission is not implemented. There is no advice in the Framework or the PPG to suggest that the grant of planning permission for the extension of a dwelling in the Green Belt amounts to the exceptional circumstances necessary to impose a condition limiting permitted development rights.
10. The Council imposed the disputed condition due to concerns about potential harm to the openness of the Green Belt as a result of future extensions and

outbuildings. The Council concluded that “in this particular case” it would be reasonable to remove those permitted development rights. There is, however, no reasoned explanation of the particular circumstances that would differentiate this case from other proposals for householder extensions and alterations in the Green Belt.

11. However, in granting planning permission, the Council accepted that the development would not cause unacceptable harm to the openness of the Green Belt. The remodelling of the outbuilding would increase the habitable area of the dwelling by converting storage areas to a gym, snug, shower room and wc. An integral double garage would be retained, and I saw that there is also a large area available for parking vehicles to the front of the house. Thus, the removal of the car-port is not likely to result in pressure for additional covered parking facilities or storage buildings in the future. Implementation of the planning permission would therefore provide additional living accommodation, without any impact on the openness of the Green Belt. Consequently, the planning permission granted would, if anything, make it less likely that further extensions will be added as permitted development in the future.
12. As the likelihood of future harm to the openness of the Green Belt is not increased as a result of the planning permission, the disputed condition is not reasonable or necessary. I therefore conclude that, without the disputed condition, the development would accord with Policies CS.1, CS.5 and CS.10 of the Core Strategy, which jointly seek to secure sustainable development that respects the local area, protects the Green Belt from inappropriate development and maintains its openness.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed. I will vary the planning permission by deleting the disputed condition.

Nick Davies

INSPECTOR