



Appeal Decision

Site visit made on 27 August 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2019

Appeal Ref: APP/R4408/W/19/3230703

Martins Nest Farm, Grime Lane, Whitley Common, Barnsley HD9 7TG

- 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 & Mrs D. Turner against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2019/0467, dated 15 April 2019, was refused by notice dated 7 June 2019.
 - The application sought planning permission for erection of 1no farm workers dwelling and formation of 2no associated car parking spaces (resubmission) without complying with a condition attached to planning permission Ref 2012/0144.
 - The condition in dispute is No 4 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (or any Order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellings which would otherwise be permitted by Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority, and no garages or other outbuildings shall be erected.
 - The reason given for the condition is: To safeguard the openness and visual amenities of the Green Belt in accordance with Core Strategy Policy CSP 34, Protection of Green Belt.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether condition No 4 of planning permission Ref 2012/0144 is necessary and reasonable having regard to local and national policy concerning agricultural workers dwellings, and development in the Green Belt.

Reasons

3. The appeal property is located in an elevated position on Grime Lane, which is a rural area falling within land designated as Green Belt. Planning approval was granted for the property as an agricultural workers dwelling in 2012 and was subject to a number of conditions, including the removal of permitted development rights.
4. The Planning Practice Guidance (PPG) 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*'.

5. The Barnsley Local Plan (the LP) was adopted in January 2019, and as a result, Core Strategy Policy CSP34 that was quoted in the condition has been superseded. Policy GB4 of the LP is now relevant, which amongst other matters, states that in relation to permanent agricultural and forestry workers dwellings, they will be allowed where there is a clearly established functional need and where they are of a size commensurate with that need. The policy specifically states that if permission is granted, permitted development rights may be removed.
6. In the Officer Report in relation to the 2012 planning application, it is noted that the dwelling was to be 150sqm in size, which was justified and appropriate at the time. I have not been made aware of any change to the agricultural business which might justify a larger dwelling on the site.
7. If permitted development rights were to be reinstated, it would be possible to make alterations to the property that could considerably extend its size, as well as the potential to erect outbuildings. Without any agricultural justification for a larger dwelling, and in the absence of the permitted development rights removal condition, there is potential for the dwelling to be of a size that is not commensurate with an established functional need. To this extent, and without such a condition, there is potential for any such resultant dwelling to conflict with Policy GB4 of the LP.
8. Being mindful of the Green Belt location, and as the agricultural workers dwelling was originally an exception to the general policies of restraint in this Green Belt location, I find the removal of permitted development rights to be reasonable in this instance. It allows the Council to properly consider any proposals on receipt of an application for planning permission, including any effects on the openness of the Green Belt.
9. I have taken into account that permitted development rights exist both within and outside of the Green Belt, and that the current General Permitted Development Order does not introduce any greater level of control for Green Belt locations. However, this does not justify the harm that could occur if the appeal building/land had its full permitted development rights in place, and in any event, I have determined this appeal on the basis of its compliance or otherwise with local or national planning policies.
10. While I have little detail before me of the appellants' family circumstances, I am mindful that in cases involving a large family some flexibility may be required. However, the resultant dwelling could have a considerable amount of accommodation, including extensive office and utility spaces. In the absence of evidence of the additional accommodation being required to meet the essential needs of a rural business, I am not satisfied that the re-instatement of permitted development rights is justified. It could result in an excessively large dwelling when measured against the purposes for which it was originally and exceptionally provided.
11. I consider that the Council's original approach was justified in this case as without the appropriate level of control, it would be possible to carry out extensions and alterations to the property or to erect outbuildings that would be harmful to the openness of the Green Belt. The land continues to be designated as Green Belt and while national planning policy has changed insofar that there is now the National Planning Policy Framework 2019 (the Framework), this continues to stress the functional aim of the Green Belt is to

protect its openness. I am therefore satisfied that in this regard there is continued and exceptional justification for removing the same permitted development rights.

12. For the collective reasons outlined above, I therefore conclude that Condition 4 continues to be justified in terms of being both reasonable and necessary in order to afford appropriate control relating to the effects of possible future development on the openness of the Green Belt and in order to ensure that the existing dwelling continues to be exceptionally justified in the Green Belt taking into account the Green Belt aims of the Framework and also the specific agricultural requirements of Policy GB4 of the LP.

Other Matters

13. I have taken into consideration the appeal examples submitted in the appellant's Statement of Case. With regard to the comments of the appellant in relation to the previous approvals, I do not have full details of those cases in front of me. Where there are what appears to be some similar development, they are located in different areas, with different development and locational characteristics to the appeal development. In any event, I have dealt with this appeal on its own merits.
14. None of the other matters raised alter or outweigh my conclusion on the main issue.

Conclusion

15. For the reasons given, and taking into account all other matters raised, I conclude that this appeal should be dismissed.

Paul Cooper

INSPECTOR