



Appeal Decision

Site visit made on 30 September 2019 by G Sibley MPLAN MRTPI

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2019

Appeal Ref: APP/K0425/W/19/3233671

28 Green Street, Hazlemere HP16 7RB

- 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 Ms Norland White of The Claudia Rose Norland White Lund Trust against the decision of Wycombe District Council.
 - The application Ref 19/05282/FUL, dated 5 February 2019, was approved on 23 April 2019 and planning permission was granted subject to conditions.
 - The development permitted is demolition of existing dwelling and construction of 1 x 4 bed detached dwelling and detached garage with associated parking and landscaping.
 - The condition in dispute is No.5 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), no development falling within Classes A, B, C, D and E of Part 1 of Schedule 2 shall be carried out without the prior, express planning permission of the Local Planning Authority.*
 - The reason given for the condition is: *In order that the Local Planning Authority can properly consider the effect of any future proposals on the character and amenity of the locality.*
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Decision

1. The appeal is allowed and the planning permission Ref: 19/05282/FUL for demolition of current dwelling and construction of 4 bedroom detached dwelling and detached garage with associated parking and landscaping at 28 Green Street, Hazlemere HP16 7RB granted on 23 April 2019 by Wycombe District Council, is varied by deleting condition No.5.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. Against the above background, the main issue is whether the condition is necessary and reasonable having regard to: 1) the character and appearance of the area and; 2) the living conditions of existing and future occupiers of the neighbouring properties with specific reference to outlook and privacy

Reasons for the Recommendation - Character and appearance

4. Paragraph 53 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Paragraph 017 Reference ID: 21a-017-20190723 of the Planning Practice Guidance (PPG)

states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.

5. The site is situated within a row of ribbon development on Green Street with the dwellings typically set back from the roadside with generous front and rear gardens with mature landscaping. The dwellings within the street are generally set in spacious plots with a good degree of separation between buildings and the site is similar in that respect. The above context contributes to the open, rural character of the street scene.
6. The existing dwelling is a two-storey detached property and planning permission was granted for a replacement two-and-half storey detached dwelling and garage. The dwelling to the east is a one-and-half storey detached dwelling and no.30 is a two-storey detached property. There is space either side of the existing property, although the proposed dwelling would be located closer to no.26 than no.30. The proposed dwelling would not develop the full width or depth of the plot. There are properties to the rear of the site at the end of the garden which are on a lower ground level.
7. The Council indicate the reason for including the disputed condition was because of their concerns over the appearance of extensions and outbuildings that are typically built under Class A and E to Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). They note that they are typically bland, un-imaginative and non-descript and that development of this kind encourages the proliferation of poorly designed developments. However, the site is not located on article 2(3) land.
8. The reason for imposing the disputed condition states that the Council needs to properly consider the effect of any future proposals on the character and amenity of the locality. However, any extension or alteration or building erected within the curtilage would need to satisfy certain criteria as set out in Part 1 to the GPDO. In any event, the Council have not submitted evidence to substantiate this line of argument. For example, there is nothing to suggest unsympathetic extensions have been built to properties thereby warranting such restrictions. In planning terms, the development permitted would be acceptable without condition 5. Consequently, it is not necessary or reasonable to remove permitted development rights having regard to the character and appearance of the area.

Living conditions

9. As I have said elsewhere, extensions to the house constructed under permitted development rights would need to comply with the limitations and conditions set out in the relevant class of development. A site plan provided by the appellant shows that a two-storey rear extension would not impede the 45-degree code in relation to the neighbouring properties. Because of the size of the plot, there is enough space to develop the proposed property without harming the living conditions of the neighbouring occupiers, with regard to outlook and privacy, within the scope set out in the GPDO.
10. In a similar vein, an outbuilding constructed under Class E to Part 1 of the GPDO would need to satisfy certain criteria. Neighbours' concerns regarding the loss of outlook would, potentially, be addressed given the physical criteria set out in Class E.

11. The Council have failed to explain why it is necessary to withhold permitted development rights on amenity grounds. The reinstatement of the permitted development allowances set out in the GPDO would not result in development that would have a significant adverse impact on the living conditions of the neighbouring occupiers. Therefore, the condition is not necessary in this regard.

Other Matter, Conclusion and Recommendation

12. The Council have suggested an alternative form of wording to substitute the disputed condition. The suggested condition would remove permitted rights for development in class B and C of Part 1 to the GPDO. However, I find that removal of these rights would also be unjustified for the same reasons above. Condition 5 and the suggested variation flies in the face of national planning policy advice cited above.
13. On the particular facts of this case, condition 5 is unreasonable and unnecessary and it does not serve a useful planning purpose given the site-specific circumstances.
14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed, and the original planning permission should be varied by deleting condition 5 in its entirety.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree and conclude that the appeal should be allowed by deleting condition 5 imposed on planning permission 19/05282/FUL granted on 23 April 2019.

A U Ghafoor

INSPECTOR