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## Appeal Decision

Site visit made on 14 October 2019

**by A Parkin BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 November 2019**

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**Appeal Ref: APP/J4423/W/19/3234496**

**Overcroft Farm, Overcroft Rise, Sheffield S17 4AX**

- 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 Graham Renshaw-Smith against the decision of Sheffield City Council.
  - The application Ref 19/02030/FUL, dated 3 June 2019, was refused by notice dated 30 July 2019.
  - The application sought planning permission for erection of a dwellinghouse with integral double garage without complying with a condition attached to planning permission Ref 18/03000/FUL, dated 17 April 2019.
  - The condition in dispute is No 18 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Schedule 2, Part 1 (Classes A to H inclusive), Part 2 (Class A), or any Order revoking or re-enacting that Order, no extensions, porches, garages, ancillary curtilage buildings, swimming pools, enclosures, fences, walls or alterations which materially affect the external appearance of the dwellinghouse and its curtilage shall be constructed without prior planning permission being obtained from the local planning authority.*
  - The reason given for the condition is: *...given the site's sensitive location partially within the Green Belt, ... it (is) necessary to remove permitted development rights in respect of extensions and other works that would materially affect the external appearance of the dwellinghouse and its curtilage.*
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwellinghouse with integral double garage at Overcroft Farm, Overcroft Rise, Sheffield S17 4AX, in accordance with the application Ref 19/02030/FUL, made on the 3 June 2019, without compliance with Condition 18 previously imposed on planning permission Ref 18/03000/FUL, dated 17 April 2019 and subject to the conditions contained in Annex A.

### Preliminary Matters

2. The original grant of planning permission was made by an Inspector following an appeal<sup>1</sup>. In these circumstances, I have made minor alterations to the wording of the reason for the condition in the banner heading above, so as to remove superfluous words and in the interests of clarity.

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<sup>1</sup> Ref: APP/J4423/W/18/3217527

## Background and Main Issue

3. An agricultural building was granted prior notification approval by the Council in 2014<sup>2</sup>, and the appellant claims that this development has commenced. This building would be outside the appeal site but adjacent to it.
4. Planning permission for the erection of a dwellinghouse with integral double garage was granted at appeal in April 2019, subject to a number of conditions. Condition 18 removed permitted development rights under Schedule 2, Part 1 (Classes A to H inclusive) and Part 2 (Class A) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
5. These permitted development rights were withdrawn given their potential visual impact and given the appeal site's sensitive location partly within the Green Belt.
6. Therefore, the main issue is whether Condition 18 is necessary and reasonable given the sensitive location of the appeal development.

## Reasons

7. The appeal site comprises part of a sloping field and a vehicular access track with turning area, connected to Overcroft Rise; the track and turning area also serves the agricultural building approved in 2014. The access road runs along the western boundary to the site, next to a drystone wall / hedge / fence by an agricultural field.
8. To the east of the site are some modern 2-storey dwellings, part of a housing estate within Totley. These dwellings are at a somewhat lower elevation than the appeal site, the upper floors and roofs of which are currently visible across the site in views from the west and south.
9. To the south and west of the appeal site are fields bounded by hedgerows and trees and containing a number of barn-like buildings such as may be used for agricultural purposes. This land is Green Belt land and is also designated as an Area of High Landscape Value (AHLV).
10. The approved scheme does not involve development within the Green Belt or the AHLV. However, part of the curtilage of the approved dwelling extends into the Green Belt / AHLV, specifically land forward of the westward-facing principal elevation, whilst land to the north of the dwelling would be readily visible from parts of the AHLV.
11. The appellant states that no part of the residential curtilage would be in the Green Belt. However, the referenced plan<sup>3</sup> is not one of the approved drawings listed at Condition 2 of the original grant of planning permission, and Drawing No 4511-01 Rev E, which is listed, shows that an area of curtilage to the front of the house would be in the Green Belt, together with the access road and most of the turning area.
12. The Green Belt and AHLV designations contribute to the visual sensitivity of this location and with regard to saved policies GE4 (Development and the Green Belt) and GE8 (Areas of High Landscape Value and the Peak National

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<sup>2</sup> LPA Ref. 14/01243/FUL

<sup>3</sup> layout drawing 4511-01 rev D

Park) contained in the Sheffield Unitary Development Plan March 1998 (SUDP), are important considerations for the appeal.

13. The approved dwelling would be located to the north and east of the approved agricultural building, which would partly screen it in views from the south and west. It would face generally westwards, towards the access road and fields beyond. Setting aside the access track and turning area, its curtilage would still be reasonably large and would include land in front of the westward-facing principal elevation; a larger area of land to the north of the principal elevation; and, land to the rear of the dwelling, adjoining the rear gardens of the existing modern housing, to the east.
14. In allowing the appeal and granting planning permission for the dwelling, the other Inspector noted that it would be *closely associated in visual terms with existing dwellings* and that whilst it *would add to the existing urban form* it would not *constitute a visual intrusion that would unacceptably harm the AHLV*. From my observations on site, I would agree with the other Inspector.
15. However, in terms of the visual prominence of the appeal site, my view is that it would be readily visible from parts of the Green Belt / AHLV, and I note that a 2015 appeal decision<sup>4</sup> considered that 'the land is indistinguishable from the land that forms the countryside beyond the settlement'.
16. I also note the appellant's comments regarding the spatial scope of permitted development rights nationally, and that this site is not in an area where permitted development rights are restricted by legislation. Nevertheless, from the evidence and my observations on site, this is a visually sensitive location and all of the permitted development rights that were removed have the potential to increase the visual intrusion of the appeal dwelling.
17. Furthermore, the approved dwelling has a reasonably large footprint and curtilage, significantly larger than for the nearby existing dwellings, seven of which back onto just the northeastern boundary of the appeal site. Consequently, some of the permitted development rights removed by Condition 18 would have the potential to significantly increase this visual intrusion.
18. From the evidence, whilst development permitted by Schedule 2, Part 1, Class C (*other alterations to the roof*), Class D (*porches*), Class G (*chimneys, flues etc.*) and Class H (*microwave antennae*) would increase the visual intrusion of the appeal dwelling somewhat, I am satisfied that the scale and siting of such development would not cause unacceptable visual harm at this location. In general terms, such development would be seen as relatively minor changes to the approved dwelling, within the visual context of the modern housing to the east and would not detract from the AHLV or affect the Green Belt.
19. However, given the size and position of the appeal dwelling and its curtilage, development permitted by Schedule 2, Part 1 Class A (*enlargement, improvement or other alteration*), Class B (*additions and alterations to the roof*), Class E (*buildings etc. incidental to the enjoyment of a dwellinghouse*) and Class F (*hard surfaces incidental to the enjoyment of a dwellinghouse*) could significantly and harmfully increase the visual intrusion of the appeal

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<sup>4</sup> APP/J4423/W/15/3033314

dwelling. Furthermore, development permitted by Schedule 2, Part 2, Class A (*gates, fences, walls etc.*) could cause similar unacceptable harm to this visually sensitive location.

20. Such development could include significant extensions or freestanding buildings or enclosures constructed to the northern side of the approved dwelling; rear dormer roof extensions that could significantly increase the massing of the appeal dwelling from certain perspectives, and large areas of hard surfacing, including on land to the front of the principal elevation of the appeal dwelling and in the Green Belt / AHLV. The erection of walls or fences up to 2 metres in height that do not adjoin a highway would also be permitted development.
21. In my view, such development would significantly increase the urban form of the appeal site, potentially encroaching onto the Green Belt / AHLV and would be readily visible from parts of these areas. Whilst the appeal dwelling itself is acceptable in visual terms at this location, the changes afforded by Part 1 Classes A, B, E and F and Part 2, Class A of Schedule 2 of the GPDO should be assessed on a case-by-case basis by the local planning authority.
22. Conditions can make otherwise unacceptable development acceptable in planning terms, and I have had regard to the six tests for planning conditions set out in paragraph 55 of the National Planning Policy Framework 2019 (the Framework), and the guidance regarding the withdrawal of permitted development rights contained in Planning Practice Guidance (PPG).
23. For the reasons given above, parts of Condition 18 are not necessary or reasonable. Consequently, Condition 18 should be deleted and replaced with a new Condition 18A that removes permitted development rights under Schedule 2, Part 1, Classes A, B, E and F and Part 2, Class A of the GPDO only. This would accord with saved policies GE4 and GE8 contained in the SUDP, Policy CS74 (Design Principles) contained in the Sheffield Development Framework Core Strategy March 2009, and with the Framework in this regard.

### **Other Matters**

24. The appellant states that the approved plans show hard surfacing to the front of the appeal dwelling. However, in the evidence before me, no such hard surfacing is shown and I have not considered this matter in determining this appeal, as set out above.

### **Conditions and Conclusion**

25. I have had regard to the conditions imposed on the original grant of planning permission and to Government guidance. Section 73(5) of the Town and Country Planning Act 1990 states that *Planning permission must not be granted under this section to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which - (a) a development must be started.* Consequently, I have amended the standard commencement condition so that it runs for a period of 3 years from the date that the original planning permission was granted.
26. For certainty, it is necessary that the development is carried out in accordance with the approved plans. Conditions relating to materials, landscaping and boundary treatments are appropriate in the interests of character and appearance. Conditions relating to contamination, water management and drainage are necessary in the interests of safety and proper site management.

A condition relating to obscure glazing is appropriate to preserve the privacy of neighbours.

27. A condition removing certain permitted development rights under Schedule 2, Parts 1 and 2 of the GPDO would be necessary to protect the character and appearance of the area.
28. It is essential that the requirements of Conditions 3, 5, 9, 14 and 16 are agreed prior to the development commencing to ensure that the development is acceptable in respect of the matters they address.
29. For the reasons given above and taking into account all matters raised, I conclude that the appeal is allowed.

*Andrew Parkin*

INSPECTOR

## **Annex A – Conditions**

1. The development hereby permitted shall begin not later than three years from 17 April 2019.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 4511 00 Rev D; 4511 01 Rev E; 4511 05 Rev D; 4511 04 Rev E; 4511 02 Rev D; 4511 03 Rev D.
3. No development shall be commenced until a scheme of hard and soft landscape works has been submitted to and approved in writing by the local planning authority. The scheme shall include details of: the size, species and spacing of planting; areas to be grassed, and; materials to be used on hard surfaces. The landscaping works shall be carried out in accordance with the approved details before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner. Any trees, plants or grassed areas detailed in the approved landscaping scheme which are removed, die, or become severely damaged or diseased within five years of the completion of development shall be replaced with a tree, plant or grassed area of comparable size and species in the next planting season, unless otherwise agreed with the local planning authority.
4. The local planning authority shall be notified in writing of the date of completion of the landscaping works. Subsequently, unless otherwise indicated on the approved plans, no tree, shrub or hedge shall be removed or pruned without the prior written approval of the local planning authority.
5. Details of site boundary treatments shall be submitted to and approved in writing by the local planning authority before the development is commenced, or within an alternative timeframe to be agreed in writing by the local planning authority. The dwelling shall not be occupied unless site boundary treatments have been provided in accordance with the approved details and they shall be retained thereafter.
6. Before the relevant part of the development is commenced, a schedule and samples of the materials and finishes to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved materials.
7. A sample panel of the proposed masonry shall be erected on the site and shall illustrate the colour, texture, bedding and bonding of masonry and mortar finish to be used. The sample panel shall be approved in writing by the local planning authority prior to the commencement of relevant part of the development and shall be retained for verification purposes until the completion of such works.
8. Before the relevant part of the development is commenced, large scale details, including materials and finishes, at a minimum of 1:20 scale, of the following items shall be submitted to and approved in writing by the local planning authority: windows; window reveals; doors; eaves and verges; roof



ridge & valleys; rainwater goods. Development shall be carried out in accordance with the approved details.

9. No development shall commence until the actual or potential land contamination and ground gas contamination at the site have been investigated and a Phase 1 Preliminary Risk Assessment Report submitted to and approved in writing by the Local Planning Authority. The Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004).
10. Any intrusive investigations recommended in the approved Phase I Preliminary Risk Assessment Report shall be carried out and be the subject of a Phase II Intrusive Site Investigation Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The Report shall be prepared in accordance with Contaminated Land Report CLR 11 (Environment Agency 2004).
11. Any remediation works recommended in the approved Phase II Intrusive Site Investigation Report shall be the subject of a Remediation Strategy Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Sheffield City Council policies relating to validation of capping measures and validation of gas protection measures.
12. All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works should cease and the Local Planning Authority and Environmental Protection Service (tel: 0114 273 4651) should be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
13. Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Sheffield City Council policies relating to validation of capping measures and validation of gas protection measures.
14. No development shall commence until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority.
15. Surface water and foul drainage shall drain to separate systems.

- 16.No development shall commence until full details of the proposed surface water drainage design, including calculations and appropriate model results, have been submitted to and approved by the local planning authority. This shall include the arrangements and details for surface water infrastructure management for the life time of the development. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. The scheme should be achieved by sustainable drainage methods whereby the management of water quantity and quality are provided. Should the design not include sustainable methods evidence must be provided to show why these methods are not feasible for this site. The surface water drainage scheme and its management shall be implemented in accordance with the approved details. No part of a phase shall be brought into use until the drainage works approved for that part have been completed.
- 17.The east facing rear elevation upper ground floor windows of the dwelling hereby approved shall be fully glazed with obscure glass to a minimum privacy standard of Level 4 Obscurity. At no time shall the windows be glazed in clear glass or a lesser obscurity level of glazing.
- 18A.Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1 (Classes A, B, E, and F), and Part 2 (Class A), or any Order revoking or re-enacting that Order, the dwelling hereby approved shall not be enlarged or altered; no buildings, structures, or hard surfaces incidental to the enjoyment of the dwellinghouse, and no fences, walls, gates or other means of enclosure, shall be erected within its curtilage without prior planning permission being obtained from the local planning authority.