



Appeal Decision

Site visit made on 13 January 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/K2230/W/19/3238306

1 Whitehouse Farm Cottages, School Lane, Higham, Rochester ME3 7JH

- 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 & Mrs C Monk against the decision of Gravesham Borough Council.
 - The application Ref 20190686, dated 2 July 2019, was approved on 22 August 2019 and planning permission was granted subject to conditions.
 - The development permitted is demolition of existing single storey side extension and erection of part two storey and part single storey side extension.
 - The condition in dispute is No 5 which states that: Notwithstanding the provisions of Article 3, Part 1, Classes A and B of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, as amend (or any provision equivalent to those classes in any statutory instrument revoking and re-enacting that Order, with or without modification), following the commencement of the development hereby approved, no other enlargement of the dwellinghouse shall be carried out (other than as shown in the approved drawings).
 - The reason given for the condition is: In order that any further enlargement, improvement or other alteration of the building may be the subject of a separate planning application which the Local Planning Authority would wish to consider on its merits, having regard to adopted planning policy and guidance. In particular Policies CS02 and CS12 of the Gravesham Local Plan Core Strategy September 2014 and Saved Policy C13 of the Gravesham Local Plan First Review.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing single storey side extension and erection of part two storey and part single storey side extension at 1 Whitehouse Farm Cottages, School Lane, Higham, Rochester ME3 7JH without compliance with condition number 5 previously imposed on planning permission Ref 20190686, dated 22 August 2019.

Application for costs

2. An application for costs was made by Mr & Mrs C Monk against Gravesham Borough Council. That application is the subject of a separate Decision.

Background and Main Issue

3. Planning permission has been granted for the demolition of the existing single storey side extension and the erection of a part two storey and part single storey side extension. In doing so the Council has imposed a planning

condition that removes permitted development rights that would allow for the property to be enlarged under Classes A and B of the 2015 Order.

4. The main issue is whether the condition is necessary and reasonable having regard to local and national policies relating to proposals affecting the Green Belt.

Reasons

5. Gravesham Local Plan Core Strategy Policy CS01 is a spatial strategy policy and Policy CS12 relates to green infrastructure. Neither policy deals with development within the Green Belt, therefore, it does not appear to me that these policies are relevant.
6. The National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering planning applications substantial weight shall be given to any harm to the Green Belt.
7. Paragraph 145 of the Framework indicates that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. One of the exceptions to this is extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building (Paragraph 145c). Saved Policy C13 of the Gravesham Local Plan First Review seeks to limit later extensions or alterations to dwellings in the Green Belt to one third of the gross floor area of the original dwelling. Although this policy dates from 1994, this does not itself render the policy out-of-date. I find the requirements of Policy C13 to be broadly consistent with the Framework in that its aim is to ensure that additions to dwellings would not be disproportionate.
8. The Council considered that given the significant increase in built mass to the original dwelling, it is appropriate and necessary to limit further extensions to the dwellinghouse under Permitted Development rights. It appears to me that the underlying reason for the condition is to protect the Green Belt and that the side extension to the dwelling would only be acceptable to the Council provided permitted development extensions are not added. However, the Council has not sought to restrict the implementation of such permitted development before the planning permission is implemented, therefore permitted development could take effect irrespective of the condition imposed.
9. Turning to national policy, the Planning Practice Guidance says that permitted development rights should only be withdrawn in exceptional circumstances. Furthermore, the Framework does not indicate that these apply to development in the Green Belt and they have not been withdrawn (in total or in part) on Green Belt in the General Permitted Development Order. Paragraph 53 of the Framework indicates that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. I have not been directed to any harm that might occur to the Green Belt if these permitted development rights were to be implemented. I, therefore, do not see any compelling exceptional circumstances that would justify the local planning authority removing these permitted development rights, noting that it has not sought to remove these rights prior to the permitted side extension being constructed.

Conclusions

10. The overall aim of Policy C13 would not be compromised as this policy relates to development for which planning permission is required, as opposed to General Permitted Development rights. I conclude that the condition is not reasonable or necessary as it does not serve a reasonable planning purpose having regard to national policy and guidance. I, therefore, do not consider that it has been reasonable or necessary to remove permitted development rights in this instance, therefore, the appeal should succeed. I will vary the original planning permission by deleting Condition 5.

Nicola Davies

INSPECTOR