



Appeal Decision

Site visit made on 10 December 2019 by C McDonagh BA (Hons), MA

by V Lucas LLB (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/N4720/W/19/3238633

The Nook, Lingwell Gate Lane, Lofthouse, Wakefield, WF3 3JU

- 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 Steve Kelly against the decision of Leeds City Council.
 - The application Ref 19/02076/FU, dated 3 April 2019, was approved on 29 May 2019 and planning permission was granted subject to conditions.
 - The development permitted is 'proposed attached garage, lifting of existing flat roof to rear and side projections, installation of new windows and doors to ground and first floor, Installation of EWI to rear and sides of existing structure, new entrance gates and walls/fencing'.
 - 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 (or any Orders revoking or re-enacting that Order with or without modification) planning permission shall be obtained before any dormers, roof extensions, or extensions are erected to the proposed dwelling'.
 - The reason given for the condition is: 'As the Local Planning Authority wish to keep control over the erection of this development to ensure control of development within the Green Belt'.
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Decision

1. The appeal is allowed and the planning permission Ref 19/02076/FU for proposed attached garage, lifting of existing flat roof to rear and side projections, installation of new windows and doors to ground and first floor, installation of EWI to rear and sides of existing structure, new entrance gates and walls/fencing at The Nook, Lingwell Gate Lane, Lofthouse, Wakefield, WF3 3JU granted on 29 May 2019 by Leeds City Council is varied by deleting condition 5 and substituting it with the following condition:

5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that order) no development falling within Class A of Part 1 of Schedule 2 of the said order shall be carried out without the prior written permission of the local planning authority.

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.

Background and Main Issue

3. The site is a former public house which was subject to a change of use in 2018 to allow its conversion to residential use. The development as described above involves the physical changes required to facilitate this change of use to a dwelling, permission for which was granted in 2019. This was subject to conditions, one of which removed permitted development rights pertaining to any dormers, roof extensions or other extensions under the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
4. The main issue is therefore whether the condition is reasonable or necessary to prevent inappropriate development in, and harm to the openness of, the Green Belt.

Reasons

5. The appeal site is a two-storey detached building of red-brick and render appearance located off Lingwell Gate Lane. A car park formerly used during the operation as a pub is located to the side, while an elevated train line, a housing estate and the M1 motorway are also notable features in the vicinity. The Council imposed the disputed condition due to concerns about potential harm to the Green Belt as a result of future extensions.
6. 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. The PPG goes on to advise that the scope of such conditions needs to be precisely defined, by reference to the relevant provisions of the GPDO, so that it is clear exactly which rights have been limited or withdrawn. Blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
7. However, the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The site is located within the Green Belt as defined in the Leeds Unitary Development Plan (UDP) (Review 2006). The Framework establishes that new buildings in the Green Belt are inappropriate, except in certain circumstances, including where they involve an extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building as set out in paragraph 145(c). An assessment of whether the proposal would be disproportionate to the original building is a matter of planning judgement and is not defined in the Framework.
8. Saved policy N33 of the UDP seeks to ensure that national Green Belt policy is applied. It refers to the limited extension, alteration or replacement of existing dwellings as being an exception to the general restraint on development within the Green Belt, which is broadly consistent with paragraph 145(c) of the Framework.

9. The Council has also referred me to HDG3 of the Leeds Householder Design Guide Supplementary Planning Document (the SPD), which addresses householder extensions in the Green Belt in conjunction with saved Policy N33. The guidance sets out that extensions to dwellings within the Green Belt should not harm the character, appearance and openness of the Green Belt, and in order to be considered as limited development and therefore not inappropriate, all existing and proposed extensions should not exceed a 30% increase over and above the original house volume.
10. Evidently, the approved development subject to this appeal equates to a 28% increase over and above the original house volume. The Council's officer report suggests that the approved extensions have nearly reached the maximum stated limits and that any further extension would likely represent inappropriate development in the Green Belt constituting additions above and beyond this 30% limit. This percentage figure is not in dispute between the parties and based on all I have seen and read, there is no reason for me to disagree. I note the point made by the appellant as to the existence of other elements in the area which are of large scale, such as the M1 motorway and train line. However, these do not justify inappropriate development in the Green Belt due to their existence and the Framework is clear in that new buildings are to be assessed on their own relative merits using the guidance therein.
11. However, it is my view that the Council's approach represents a blanket removal of freedoms which is also not specific so as to highlight precisely which sections of the relevant provisions of Part 1 of Schedule 2 of the GPDO have been limited or withdrawn. In my judgement, the wording of the condition stating 'dormers, roof extensions or extensions erected to the proposed dwelling' would relate to Classes A, B, C and D of this part of the GPDO. I have therefore limited my assessment to these. It is necessary therefore to determine whether any of the individual and specific requirements of the condition should be retained.
12. Class A relates to extension to the original dwelling. Given the existing size of the dwelling, I acknowledge that the permission allows extensions of considerable size. I would concur that any additional significant extension of the house would result in inappropriate development in the Green Belt. Requiring that any further extension be considered as part of an application would provide protection for the Green Belt and allow for any material considerations to be taken into account. I am satisfied that the scale of the extensions approved, together with the Green Belt policies of the Framework, represent exceptional circumstances in this particular case and they justify the removal of permitted development rights for significant further extensions within Class A.
13. Class B relates to additions to the roof, while Class C relates to other alterations to a roof. I am given to understand the appellant may wish in future to carry out alterations to the roof. Given there is some limited scope to extend before reaching the 30% threshold advised in the SPD, and the relatively small scale of roof extensions in general, I would not agree that there is any need to control them. Similarly, Class D relates to the provision of small porches outside external doors. I find very limited potential for such further works given the design of the dwelling includes the provision of an entrance lobby. Such works would, in any event, have a very limited impact, given the size

allowable. I do not find the inclusion of development permitted by Classes B - D to be necessary in this condition.

Other Matters

14. Reference is made by the appellant to the distance to the nearest un-associated dwelling to the appeal site, which would ensure the relative living conditions of those residents are not affected. I am not aware of any objection to this matter by the Council and as such have not considered it further.
15. I further note the reference to a previous appeal decision¹ for a similar case. However, this refers to a decision made in a different council area and I have no specific details as to the circumstances. As such I have afforded it limited weight in the decision-making process.

Conclusion

16. I have found elements of the condition to be unreasonable and unnecessary and as such it should be removed. I have however found elements of it to be necessary and reasonable and a modified condition would meet the tests of the Framework. I therefore allow the appeal and delete condition 5, replacing it with a modified version.

Recommendation

17. 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 and replacing it with a modified version.

C McDonagh

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report. On that basis, I agree and conclude that the appeal should be allowed by modifying condition 5 imposed on planning permission 19/02076/FU granted on 29 May 2019.

V Lucas

INSPECTOR

¹ APP/T0355/W/16/3156065