



Appeal Decision

Site visit made on 10 March 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2020

Appeal Ref: APP/J1535/19/3242259

1 Brick Cottages, Anchor Lane, Abbess Roding, Ongar CM5 0JP

- 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 R Parmenter against the decision of Epping Forest District Council.
 - The application Ref EPF/2261/19, dated 16 September 2019, was refused by notice dated 14 November 2019.
 - The application sought planning permission for the removal of the first floor of the existing dwelling, and its conversion to a domestic garage and erection of a replacement single storey detached dwelling, without complying with a condition attached to planning permission Ref EPF/1070/17, dated 4 April 2017.
 - The condition in dispute is No 10 which states that: *'Prior to the first occupation of the bungalow hereby approved, the works to reduce the current dwelling to a single storey garage structure and make good the gable wall exposed by these works shall be carried out in accordance with drawing number P/16/011/013 and completed. Thereafter the resulting garage building shall be retained solely for the garaging of vehicles and domestic storage for the occupants of the new dwelling and shall not at any time be used as habitable accommodation'.*
 - The reason given for the condition is: *'The new dwelling is only acceptable in the Green Belt because it is replacing an existing dwelling. Failure to remove the existing dwelling would result in inappropriate development which is contrary to Chapter 9 of the National Planning Policy Framework, and Policy GB2A of the Epping Forest District Local Plan and Alterations'.*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. My attention has been drawn to a certificate of lawfulness ref: EPF/1597/19 issued by the Council for a single storey side extension and outbuilding. This, however, is a different matter than that before me, which is the consideration of whether Condition 10 of planning permission ref: EPF/1070/17 should be removed or not. I have proceeded accordingly.
3. For clarity, the appellant seeks removal of Condition 10 attached to planning permission EPF/1070/17, and not any variations or changes previously sought and granted under EPF/0668/18.

Main Issue

4. The main issue is whether Condition 10 imposed on planning permission EPF/1070/17 is necessary and relevant to Planning and the development to be permitted as set out in Paragraph 55 of the National Planning Policy Framework (the Framework).

Reasons

5. The appeal property, 1 Brick Cottages, is a modest two-storey dwelling located in the Green Belt. It forms the left-hand side of a pair of cottages set back from Anchor Lane. To the left-hand side of No 1 there is a new single storey detached dwelling, that at the time of my site inspection appeared mostly completed. Permission for this replacement bungalow style dwelling was granted under EPF/1070/17 as 'very special circumstances' in Green Belt terms were identified. In that case the Council found that, although the development would be 69% larger than the existing development on site, given that the proposal would be a modest single-storey building, that 'very special circumstances' applied via the provision of accommodation suitable for people with mobility difficulties.
6. Paragraph 55 of the Framework sets out when planning conditions should be imposed. Occupation of the replacement dwelling was conditional, amongst other things, on the reduction of the host dwelling, which is attached to 2 Brick Cottages, from a two-storey residential dwelling to a single storey garage that would be used solely for the garaging of vehicles and domestic storage for the occupants of the new dwelling, and would not be used at any time for habitable accommodation.
7. That permission also set out that permitted development rights were to be removed to restrict future development on the site, and that a landscaping condition would be applied. These conditions were imposed because they were necessary and relevant to planning in order to protect the openness of the Green Belt. This makes practical sense given that the Government attaches great importance to Green Belts, and that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open.
8. It is clear from the submitted evidence that the effect of permitting the changes sought would increase the scale of development on the site as set out in drawing P-16-011-013 and would only be possible if Condition 10 were to be removed. Moreover, this would result in a new additional building in the form of a dwelling house in the Green Belt. However, as the reason attached to Condition 10 clearly indicates, planning permission was given for a single replacement dwelling. Put another way; there would be no net increase in the number of dwellings in the Green Belt arising from the original permission. As such, the extant description of development and Condition 10 are mutually dependant and cannot exist in isolation.
9. Indeed, removal of Condition 10 would lead to a fundamental inconsistency between the condition and the description of development contained in the Council's decision notice. I conclude therefore, that Condition 10 is necessary and relevant to Planning and the development permitted, as set out in Paragraph 55 of the Framework, and should be retained.

10. In this respect, the proposed removal of the condition would be contrary to Policy GB2A, of the Epping Forest Local Plan and alterations 2006, which is reinforced by Policy DM4 of the emerging Epping Forest District Local Plan submission version 2017, which say, amongst other things, that planning permission will not be granted for the construction of new buildings in the Green Belt unless it preserves the openness of the Green Belt.
11. For similar reasons, the proposal to remove or alter or not comply with Condition 10 is in conflict with Paragraphs 143 and 145 of the Framework, which state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other Matters

12. I acknowledge that the site is within the Epping Forest Conservation Area, which is designated as a Special Area of Conservation due to it containing a number of habitats listed in the Habitats Directive. However, given my overall conclusions on the main issues I have not considered this matter further.

Conclusions

13. Condition 10 should be retained in its current form as it is necessary and relevant to planning and the permission granted. I therefore conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR