



Appeal Decision

Site visit made on 11 August 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal Ref: APP/P2935/W/20/3252762

Eland Close, Eland Lane, Ponteland, Newcastle Upon Tyne NE20 9TP.

- 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 D Dixon against the decision of Northumberland County Council.
 - The application Ref 20/00064/FUL, dated 9 January 2020, was approved on 15 April 2020 and planning permission was granted subject to conditions.
 - The development permitted is rear extension to dwelling, replacement front porch, addition of 2no. front and 1no. rear dormer, internal works with re-positioning/replacement of existing windows and facing of property in natural stone.
 - The condition in dispute is No 3 which states that: Notwithstanding the provisions of Schedule 2, Part 1, Classes A to E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), full formal planning permission will be required at the subject site (Eland Close, Eland Lane, Ponteland) for any enlargement of the dwellinghouse, additions to the roof, other alterations to the roof, porches and buildings that would have otherwise been permitted under these Classes of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Permitted Development rights have been removed in relation to Schedule 2, Part 1, Classes A to E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The reason given for the condition is: in the interests of protecting the Green Belt in accordance with the NPPF and local development plan policies.
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Decision

1. The appeal is allowed, and planning permission ref 20/00064/FUL for rear extension to dwelling, replacement front porch, addition of 2no. front and 1no. rear dormer, internal works with re-positioning/replacement of existing windows and facing of property in natural stone at Eland Close, Eland Lane, Ponteland, Newcastle upon Tyne NE20 9TP granted on the 15 April 2020 by Northumberland County Council, is varied by deleting condition 3 and replacing it with the following condition:

Condition 3 :

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking and re-enacting this Order with or without modification) (the GPDO), no development, other than that expressly authorised by this permission, shall take place which would otherwise be permitted under Schedule 2, Part 1 Classes A, B, C and D of the GPDO.

Background and Main Issue

2. Eland Close is a single storey dwelling located in a semi-rural location on the periphery of the village of Ponteland. It is a well landscaped plot, surrounded by undeveloped land, located within the Green Belt.
3. The planning permission granted for various extensions and alterations to the appeal property includes condition 3 removing permitted development rights for extensions, alterations and buildings at the site; namely Classes A to E of Schedule 2, Part 1, to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(the GPDO).
4. Though the Council offers no comments on the appellant's submission its reasons for applying the condition relate to protection of the Green Belt in accordance with the National Planning Policy Framework (the Framework) and local development plan policies.
5. The appellant, although accepting of the majority of condition 3, contends that the removal of the right to construct buildings permitted by Class E of the GPDO would not comply with the six tests¹ and is seeking to vary condition 3 accordingly.
6. Therefore, having regard to the above and the submitted evidence, the main issue is whether the removal of Class E permitted development rights is reasonable and necessary to protect the Green Belt in accordance with national and local policy.

Reasons

7. The Council concluded that the extensions to the appeal property would be disproportionate in size to the original building and therefore inappropriate in the Green Belt. Although disproportionate in size to the original building the extensions were considered acceptable, because the alternative scheme or 'fallback' proposals, which could be constructed under permitted development, would result in a less satisfactory design. The existence of a 'fallback' and the quality of the alternative scheme design represented the very special circumstances necessary to outweigh the harm to the Green Belt by reason of inappropriateness. The Council did not identify any other harm.
8. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance (PPG) states that restricting the future use of permitted development rights may not pass the test of reasonableness or necessity, the scope of such conditions needs to be precisely defined.
9. The exercise of permitted development rights could further increase the size of the dwelling. It could also dilute the quality of the approved scheme design undermining the very special circumstances for allowing the development in the Green Belt. Condition 3 is therefore necessary and reasonable in so far as it restricts the extension and alteration of the dwelling under Classes A to D of Schedule 2, Part 1 of the GPDO.

¹ Set out in Paragraph 55 of the National Planning Policy Framework- Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects

10. However, the deemed grant of planning permission under the terms of the GPDO does not explicitly exclude development within the Green Belt. Furthermore, there is no requirement within its terms to subject any proposed development to the tests of inappropriateness or openness.
11. The proposed extensions would be higher than could be constructed under permitted development. Nevertheless, the construction of buildings under Class E, cumulatively with the proposed extensions and alterations, would not have a markedly different visual effect than if they were constructed with the 'fallback' alternative. Further, with the restrictions placed on the size and siting of buildings under the terms of Class E of the GPDO, such buildings are unlikely to be prominent in the site context or detract from the design of the extensions and alterations to the dwelling as approved.
12. I therefore agree with the appellant that the removal of Class E permitted development rights is not necessary to make otherwise unacceptable development in the Green Belt acceptable. Consequently I conclude that removal of Class E permitted development rights is not reasonable and necessary to protect the Green Belt or to accord with the requirements of Policy C17 of the Castle Morpeth District Local Plan (2003) in so far as it relates to development in the Green Belt or Policies PNP1 and PNP2 of the Ponteland Neighbourhood Plan, which together seek sustainable high quality and inclusive design.
13. Therefore, I shall delete the originally worded condition and replace it with one that only refers to the removal of Classes A to D permitted development rights.

Conclusion

14. For the reasons given above, I conclude that the planning permission should be varied as set out in the formal decision.

Diane Cragg

INSPECTOR