The Planning Inspectorate

Appeal Decision

Site visit made on 28 July 2020 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal Ref: APP/X4725/W/20/3246766
Thorpe Lane (Land at), Thorpe Audlin, Pontefract WF8 3HE

- 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 G Moore against the decision of Wakefield Council.
- The application Ref 19/01102/S7301, dated 9 September 2019, was refused by notice dated 27 November 2019.
- The application sought planning permission for 1no. dwelling following demolition of existing stables without complying with a condition attached to planning permission Ref 19/01102/FUL, dated 29 July 2019.
- The condition in dispute is No 11 which states that: *Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (as amended) (or any Order revoking or re-enacting that Order) no development included within classes A, B, C,D, E or F of part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority*.
- The reason given for this condition is: *In the interests of amenity and to preserve the openness of the Green Belt in accordance with policies CS1, CS3 and D9 of the Council's adopted Local Development Framework Core Strategy and Development Policies Document and Paragraph 145 of the National Planning Policy Framework*.

Decision

1. The appeal is dismissed.

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. An application for the erection of a dwelling following demolition of existing stables[1] was approved and granted permission on 29 July 2019, subject to a number of conditions, including No. 11, which removed various permitted

[1] 19/01102/FUL

development rights for alterations and extensions to the property. The reasons for the imposition of the condition, as stated on the decision notice, were to safeguard the amenity of the area and to preserve the openness of the Green Belt. The appellant is seeking to remove this condition.

4. As such, the main issue in this appeal is whether the condition is reasonable and necessary in the interests of the openness of the Green Belt and the character and appearance of the surrounding area.

Reasons for the Recommendation

5. The Planning Practice Guidance (PPG) notes that conditions restricting the future use of permitted development rights (PD Rights) or changes of use may not pass the test of reasonableness or necessity. Similarly, the PPG notes that blanket, area wide, removal of PD rights is unlikely to be reasonable or necessary. Consequently, specific justification is needed in any given case and the scope of such conditions needs to be precisely defined, by reference to the relevant provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO).

6. Paragraph 55 of the National Planning Policy Framework (the Framework) states that 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.

7. The effect of development on the appeal site upon the openness of the Green Belt and character of the surrounding area has been previously considered under a previous proposal[2]. The appellant had proposed partial demolition of stables and construction of one dwelling including associated works. Planning permission was refused for this proposal, and an appeal against this refusal was subsequently dismissed[3]. In his decision, the Inspector acknowledged that the proposal represented the redevelopment of a previously developed site but cited concerns relating to the openness of the Green Belt and harm to the character of the area resulting from domestication of the site resulting from features such as lighting, garden buildings, clothes drying and play equipment etc.

8. Subsequently the appellant submitted a revised scheme which proposed total demolition of the stables and a dwelling of a smaller scale than the existing stable. The appellant contends that the volume of the approved dwelling would be 80% of the volume of the previous stable. The Council has not disputed that figure. Thus, in terms of volume there is no net harm, and a small benefit to the openness of the Green Belt arising from the approved scheme. The Council were satisfied that the proposal did not represent 'inappropriate' development in the Green Belt, having regard to local policy and the terms of paragraph 145(d) of the National Planning Policy Framework (the Framework).

9. The appellant correctly points out that the GPDO allows for domestic extensions and works within the Green Belt. Had the Government wished to restrict the use of such rights within the Green Belt it could have worded the GPDO to that effect, in a similar way to which certain PD rights are limited in areas such as Conservation Areas or National Parks. However, it did not do so and householders living in the Green Belt throughout the country have the ability to

[2] 18/00654/FUL
[3] APP/X4725/W/18/3210378

exercise those rights. Thus, an acceptance of some additional building which would impact on the openness of the Green Belt is embedded in the GPDO.

10. Similarly, under paragraph 145(c) of the Framework, extensions to buildings are not inappropriate providing that they do not result in disproportionate additions over and above the size of the original building. That applies to all buildings, residential or otherwise and is a recognition that some additional development is acceptable. The Council assessed the proposal under paragraph 145(g) of the Framework whereby the redevelopment of previously developed sites is not inappropriate providing that the proposal would not have a greater impact on the openness of the Green Belt than the existing development. The amended development achieved that criteria and does not have a greater impact on the openness of the Green Belt than the previous development at the site. The terms of paragraphs 145(g) do not imply that any future extensions should be precluded. All that policy seeks to do is to regulate the scale of a replacement dwelling at the point of construction.

11. Thereafter, there is no reason, in principle, why future householders should not benefit from the same rights as other householders in the Green Belt. The base point is a dwelling that does not have any greater impact on openness. Given the acceptance of domestic extensions in the Green Belt within the GPDO I see no reason why permitted development rights should be removed based on the location of the site within the Green Belt. Had the previous barn remained in situ, it would have benefitted from permitted development rights and there is nothing within national policy to indicate that a different approach should be taken for domestic buildings. In other words, if a new dwelling is found to be acceptable in the Green Belt I am not satisfied that it is reasonable or necessary, purely as a matter of principle, to place future owners in a more restrictive position than any other household in the Green Belt.

12. However, having regard to the planning history of the site, including the previous appeal decision, the decision to remove permitted development rights was not simply a blanket restriction but was related to the very specific circumstances of the scheme. In dismissing the previous appeal, the Inspector made reference to the rural nature of the site and the incongruous design of the proposed scheme, when compared to the design of the stables and equestrian buildings. In particular, he concluded that the use of materials, the position of the proposed dwelling and the likely proliferation of domestic paraphernalia within the curtilage would have harmful visual impacts when viewed from surrounding vantage points.

13. The scheme was subsequently revised, following the recommendation of a landscape assessment, to reduce the scale of the dwelling and locate it on the footprint of part of the former stable. The profile of the building was revised to a very simple rectangular form, with external cladding to reflect the existing stables and make the appearance appropriate to the rural location. The size of the curtilage was reduced. The Council was satisfied with those alterations which responded to the concerns of the previous Inspector in relation to the visual impact of the scheme. I agree that those alterations were necessary to make the design of the scheme acceptable in visual terms, having regard to the sensitive countryside location and the design related requirements of Policy D9 of Wakefield Council's Local Development Framework Development Policies Document (the 'DPD').

14. Given those sensitivities and the very careful thought to the simple design of the structure and its associated curtilage and landscaping, the property would be sensitive to change that could arise from extensions, alterations in the design or the erection of curtilage structures. Such development could result in an overtly domestic appearance that would cause harm to the character and appearance of the building and the surrounding countryside, as visible through gaps in landscaping and hedgerows around the site, particularly in the winter months.

15. Neither of the parties have provided a calculation of what could be added to the approved scheme under permitted development rights. Nonetheless, it is clear that such alterations could significantly change the simple linear form of the building and introduce additional structures in the curtilage. Consequently, I am satisfied that the particular circumstances of the case warrant the removal of permitted development rights and that the condition is reasonable and necessary to protect the visual character of the area in accordance with the need for good design, as set out in the Framework and policy D9 of the DPD.

16. That does not amount to a blanket restriction but a genuine restriction of PD rights arising from the circumstances of the site. I note reference to other appeal decisions but the history and evolution of the development in question is very specific to the site and I am not satisfied that the other examples are directly comparable.

Conclusion and Recommendation

17. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be dismissed.

Chris Preston

INSPECTOR