



Appeal Decision

Site visit made on 1 December 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2020

Appeal Ref: APP/X1925/W/20/3244379

Bewlay, Royston Road, Slip End, Hertfordshire SG7 6SF

- 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 Jason Bird against the decision of North Hertfordshire District Council.
 - The application Ref 19/01885/FPH, dated 2 August 2019, was approved on 1 November 2019 and planning permission was granted subject to conditions.
 - The development permitted is described as "additional residential accommodation attached to existing annex building comprising 3 bedrooms with associated self contained living Accommodation".
 - The condition in dispute is No 4 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in classes A, B, C and E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.
 - The reason given for the condition is: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area.
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Decision

1. The appeal is allowed and the planning permission Ref 19/01885/FPH for additional residential accommodation attached to existing annex building comprising 3 bedrooms with associated self contained living Accommodation at Bewlay, Royston Road, Slip End, Hertfordshire SG7 6SF granted on 1 November 2019 by North Hertfordshire District Council, is varied by deleting condition No 4.

Planning Matters and Main Issue

2. Planning permission has been granted for the erection of an extension to an annexe building within the appeal site. Conditions were attached to this permission, one of which removed certain permitted development rights for four classes within Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO) relating to development within the curtilage of a dwelling house.
3. The appellant seeks to remove the disputed condition which would enable occupiers of the dwelling to benefit from permitted development rights within the four classes.

4. In light of the above analysis and the stated reason for the condition, the main issue is whether the disputed condition is reasonable and necessary in the interest of the character and amenities of the area.

Reasons

5. Paragraph 53 of the National Planning Policy 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 Guidance¹ also states that conditions restricting the future use of permitted development rights will rarely pass the test of reasonableness or necessity.
6. The appeal relates to a detached dwelling which is accessed off the A505 and forms part of a small cluster of buildings that are surrounded by open countryside and agricultural fields. Notwithstanding an annexe, stable and other domestic outbuildings that have been erected within the site, it nonetheless remains largely undeveloped and open with areas of grassed land about the buildings. Moreover, as a result of the hedging and fence that bound the site and its location off the A505, public views into the site are limited to those properties that surround it. However, given the extent of vegetation that surround the site, views from neighbouring properties into the appeal site would also be limited.
7. The provisions of the GPDO may allow the construction of buildings or structures on the site. However, when viewed from those very limited public vantage points which exist from the A505, any such buildings would be viewed against the backdrop of the existing houses and alongside the domestic outbuildings of various heights and designs which occupy the existing dwelling's garden at present. Furthermore, given what appeared to be generally high vehicle speeds on the A505, and the absence of pedestrian footpaths along this route, any public views of the site from that point would be very fleeting in any event.
8. Thus, given the very limited public views of the site, and its setting in the context of this existing small cluster of residential and other buildings, the construction of further domestic buildings or structures to the extent permitted by the GPDO would not appear discordant or visually intrusive or cause material harm to the site's wider rural surroundings. I do not find that the removal of permitted development rights has been adequately justified in this instance.
9. I therefore conclude that Condition 4 is not reasonable or necessary, having regard to the effects of the proposed development on the character and amenities of the appeal site and its surroundings.

Conclusion

10. For the reasons given above, the appeal shall succeed and I vary the planning permission by deleting Condition 4.

Graham Wyatt

INSPECTOR

¹ Paragraph: 017 Reference ID: 21a-017-20190723 Revision date: 23 07 2019