
Appeal Decision

Site visit made on 23 February 2021

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2021

Appeal Ref: APP/M1595/W/20/3254778

Blossom Barn, Peartree Lane, Bulphan, RM14 3SP

- 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 Dr Harish Masson against the decision of Thurrock Borough Council.
- The application Ref 20/00266/CV, dated 2 March 2020, was refused by notice dated 27 May 2020.
- The application sought planning permission for Proposed conversion of existing barn to single dwelling house without complying with conditions attached to planning permission Ref 14/01351/FUL, dated 27 March 2015.
- The conditions in dispute are Nos 6 and 7 which state that:
(No 6) "Notwithstanding the provisions of the Town and Country Planning [General Permitted Development] Order 1995 [or any order revoking and re-enacting that Order with or without modification], no gates, fences, walls or other means of enclosure shall be erected or provided on the site without the prior written consent of the local planning authority."
(No 7) "Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C and E of the Town & Country Planning [General Permitted Development] Order 1995 [or any order revoking and re-enacting that Order with or without modification] no extensions shall be erected to the development hereby permitted".
- The reasons given for the conditions are:
(No 6) "In the interests of protecting the visual amenities of the area and to accord with policies CSTP22 and PMD2 of the Adopted Core Strategy and Policies for Management of Development Focused Review – Consistency with National Planning Policy Framework [January 2015]".
(No 7) "In the interests of amenity and to ensure that the proposed development is satisfactorily integrated with its immediate surroundings in accordance with Policies PMD2 and PMD6 of the Adopted Core Strategy and Policies for Management of Development Focused Review – Consistency with National Planning Policy Framework [January 2015]".

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether conditions 6 and 7 are reasonable and necessary having regard to the potential effects of permitted development on the visual amenities of the area and the openness of the Green Belt.

Reasons

3. The appeal relates to a former barn which was granted planning permission in March 2015 for use as a single dwelling house. The dwelling is located at the end of Peartree Lane, a long unmade track serving a number of other dwellings and uses. The dwelling is located deep within its plot, to the rear of a property known as Homeleigh, which fronts onto Peartree Lane. The surrounding area is rural in character and appearance, with informal, sporadic development along Peartree Lane, with open fields beyond.
4. Paragraph 53 of the National Planning Policy Framework (the Framework) advises against the use of planning conditions to restrict permitted development (PD) rights unless there is clear justification to do so. Such conditions should only be imposed where they are necessary, relevant, and amongst other criteria, reasonable in all other respects. The Planning Practice Guidance states that blanket removal of freedoms to carry out small scale domestic alterations are unlikely to meet the tests of reasonableness and necessity, and it advises that the scope of conditions should be precisely defined.

Condition 6

5. Condition 6 of planning permission ref. 14/01351/FUL removed PD rights in relation to gates, fences, walls or other means of enclosure. The reason for the removal of the condition was 'in the interests of protecting the visual amenities of the area and to accord with policies CSTP22 and PMD2 of the Adopted Core Strategy and Policies for Management Focused Review – Consistency with National Planning Policy Framework [January 2015]’.
6. Policy CSTP22 of the Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) ('the CS'), among other things, seeks to ensure that developments respect the distinct positive characteristics of areas within Thurrock and address the particular sensitivities and capacities of places within which they occur. Policy PMD2 of the CS requires that proposals should respond to the sensitivity of the site and its surroundings and contribute positively to the character of the area including local views, the townscape and a positive sense of place.
7. The appeal property is sited in a sensitive location deeper into its plot than most other development along Peartree Lane. Furthermore, the dwelling is positioned at the end of the lane, and is bounded by open fields on two sides, with informal hedging and other vegetation forming the external boundaries with the countryside beyond. Whilst I note that boundary treatments in the area are mixed, with some examples of fencing and walls, the more informal landscaped boundaries nonetheless appear to predominate and these contribute to the rural character of the area.
8. Given the sensitive rural location of the dwelling and its proximity to open countryside, I consider that the uncontrolled erection of fences, walls and gates etc could potentially have a highly urbanising effect which would harm the visual amenities of the area and the character and appearance of the countryside, contrary to Policies CSTP22 and PMD2 of the CS. I therefore find that condition 6 meets the tests set out in the Framework and is reasonable and necessary.

Condition 7

9. The Council imposed condition 7 to remove PD rights within Classes A, B, C and E¹ which refer to various extensions, alterations and outbuildings to domestic properties. It is not therefore a full 'blanket' restriction of PD rights. The reason for the condition was stated to be in the interests of amenity and to ensure that the proposed development is satisfactorily integrated with its immediate surroundings in accordance with Policies PMD2 and PMD6 of the CS.
10. As stated above, Policy PMD2 of the CS requires development to respond positively to the sensitivity of the site and its surroundings. Policy PDM6 concerns development in the Green Belt. With regard to the re-use and adaption of buildings, it sets out various criteria to be met. The original planning application² for the conversion of the barn to a single dwelling was assessed against this policy and was found not to constitute inappropriate development.
11. The reason for refusal of application ref. 20/00266/CV is clear in that the Council seeks control in assessing any future effects of development on the Green Belt and the rural character of the area. If uncontrolled, a detached house on a large plot could otherwise feasibly undertake a significant amount of development without the need for planning permission.
12. Paragraph 145 c) of the Framework establishes that extensions or alterations to a building within the Green Belt are not inappropriate provided that they do not result in disproportionate additions over and above the size of the original building.
13. The appeal site's location within the Green Belt does not, in itself, represent a circumstance to warrant removal of PD rights and the deemed grant of planning permission under the terms of the GPDO does not explicitly exclude development within the Green Belt. However, in this particular case, the dwelling is not conventional and is instead a conversion of an existing barn, which was originally assessed against the strict criteria set out in Policy PMD6. These criteria included that the proposed use can be fully contained in the building and would not require extensive new buildings or inappropriate use of open areas; and, that the use does not have a materially greater impact than the present use on the openness of the Green Belt or amenities of the area.
14. The dwelling is also located in a highly prominent, sensitive location, away from existing frontage development along Peartree Lane. Notwithstanding existing boundary hedges, it is open to views from the open fields beyond. The building is substantial in size and given its rural character and appearance, would be sensitive to change from further additions. In my judgment, the removal of condition 7 and thus the lifting the current restrictions on PD rights would lead to considerable potential for unsympathetic alterations and large extensions that could result in disproportionate additions that may have a significant impact on the openness of the Green Belt. Such extensions and alterations, along with further built form including outbuildings, would have the potential to

¹ Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (GPDO)

² LPA ref. 14/01351/FUL

harm the visual amenities and character and appearance of the surrounding area, as well as the openness of the Green Belt.

15. I note that the appellant does not have current plans to significantly extend the dwelling. However, all types of extensions and alterations that could be carried out under Classes A, B, C and E (and including the new Class AA) could potentially have a significant harmful effect on the visual amenities and character and appearance of the surrounding area and the openness of the Green Belt, contrary to Policies PMD2 and PMD6 of the CS as well as paragraph 145 of the Framework.
16. I therefore conclude that Condition 7 is reasonable and necessary and meets the tests set out in paragraph 55 of the Framework in all other respects.

Other matters

17. The appellant has drawn my attention to various appeal decisions relating to the removal of conditions restricting PD. Whilst I acknowledge that there are certain circumstances where such conditions have been removed or amended, I do not have the precise details of the cases before me and in any event, I am required to determine the appeal on its own merits. In addition, whether or not other dwellings in the immediate area benefit from PD rights is not a matter before me.

Conclusion

18. In conclusion, I find that conditions 6 and 7 are reasonable and necessary having regard to the potential effects of permitted development on the visual amenities of the area and the openness of the Green Belt. I therefore dismiss this appeal.

J Davis

INSPECTOR