



Appeal Decision

Site Visit made on 8 June 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2021

Appeal Ref: APP/V0510/W/21/3267097

63 Aldreth Road, Haddenham, CB6 3PN

- 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 Williams against the decision of East Cambridgeshire District Council.
 - The application Ref 20/01260/VAR, dated 24 September 2020, was refused by notice dated 20 November 2020.
 - The application sought planning permission for construction of 1no. four bedroom detached dwelling and garage without complying with a condition attached to planning permission Ref 20/00220/FUL, dated 2 June 2020.
 - The condition in dispute is No 10 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order), the dwelling shall not be extended in any way, and no structures shall be erected within the curtilage of the dwelling, without the prior written consent of the Local Planning Authority.
 - The reason given for the condition is: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015.
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Decision

1. The appeal is allowed, and planning permission is granted for construction of 1no. four bedroom detached dwelling and garage at 63 Aldreth Road, Haddenham, CB6 3PN in accordance with the application ref 20/01260/VAR dated 24 September 2020, without complying with condition number 10 attached to planning permission Ref 20/00220/FUL dated 2 June 2020, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The replacement dwelling was under construction at the time of my site visit. The appeal has been determined on that basis.

Main Issue

3. The main issue is whether the condition is reasonable and necessary, having regard to the effect of its removal on the character and appearance of the area.

Reasons

4. Policy GROWTH 2 of the East Cambridgeshire Local Plan 2015 (the LP) states that outside defined development envelopes development will be restricted to certain specific categories, including extensions to dwellings, providing there is no significant adverse impact on the character of the countryside and that other Local Plan policies are satisfied. Policy HOU 8 of the LP requires that

extensions to houses in the countryside be in keeping with the height, scale and character of the original dwelling and does not adversely affect the character and appearance of the locality or its countryside setting. Policies ENV 1 and ENV 2 of the LP collectively require that development be designed to a high quality and that it protect, conserve, and where possible enhance its surroundings.

5. The footprint of the new dwellinghouse is broadly similar to that of the original house on this site. The new detached garage is also of comparable footprint and in a similar location to that which previously existed on site. The appeal site is located outside of the village of Haddenham, and the house is separated by a considerable distance from any neighbouring property on this side of the road.
6. There is no language contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) to suggest that houses within the countryside should automatically be subject to the removal of their permitted development rights. The National Planning Policy Framework states that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. National planning practice guidance further advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.
7. The replacement dwelling is of a similar height and scale to that which previously existed. That original house was not subject to restrictions on its permitted development rights. The Order limits development that may occur between a dwelling and the highway, and therefore generally only extensions or outbuildings built to the side or rear of the replacement house would be permitted development. The permitted development rights set out in the Order also contain limitations on the height, siting and size of such development. Given these restrictions, any extensions to the building, or the construction of ancillary outbuildings, that fall within permitted development would be domestic in scale and in keeping with the scale of the house. They would therefore not cause unacceptable harm to the character and appearance of the area.
8. My attention has been drawn to an earlier refusal for a replacement dwellinghouse on this site. However, the Inspector in that case found that the height and bulk of the proposed dwelling and garage would cause harm to the character and appearance of the area. While the Order does allow the increase in height of dwellings under Class AA, this only applies where the house was constructed between 1st July 1948 and 28th October 2018, which is not the case here. There is no indication that my colleague found that the scale of development would otherwise result in harm to the character and appearance of the area.
9. I do not therefore consider that the condition is reasonable or necessary, having regard to Policies GROWTH 2, HOU8, ENV 1 and ENV 2 of the LP, and the effect that removing the condition would have on the character and appearance of the area.

Other Matters

10. At the time of my site visit there was evidence of construction to the rear of the house comprising a brick wall and excavations and blockwork for a pond or pool. This falls outside of the scope of this appeal to address, and any further action would be for the Council and appellant to resolve between them.

Conditions

11. National planning practice guidance states that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless already discharged. I have therefore imposed conditions as previously set out, other than where they have been stated to have been discharged. I have also omitted the condition requiring commencement within three years of the permission, as the works have already commenced.

Conclusion

12. For the reasons set out above, the appeal succeeds and the original permission is varied as set out in the formal decision and in the schedule of conditions.

M Chalk

INSPECTOR

Schedule of conditions

1. Development shall be carried out in accordance with the drawings and documents listed below

Plan Reference	Version No	Date Received
01/2176A/19		2nd March 2020
02A/2176A/19		30th April 2020
03A/2176A/19		30th April 2020
04A/2176A/19		30th April 2020
05A/2176A/19		30th April 2020
06A/2176A/19		30th April 2020
2. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken, and following completion of measures identified in the approved remediation scheme a verification report must be prepared, and approved in writing by the Local Planning Authority.
3. The soft landscaping shall be carried out in accordance with the details approved under application 20/00220/DISB, drawing number 487-01 and in report 'Soft Landscape Works Specification with 5 Year Management Plan' by The Huck Partnership Ltd, dated July 2020.
4. Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 0730 to 1800 each day Monday - Friday, 0730 to 1300 Saturdays and none on Sundays, Bank Holidays and Public Holidays.
5. Prior to first occupation or commencement of use the proposed on-site parking and turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan 02a/2176A/19, dated April 2020 and thereafter retained for that specific use.
6. The access and all hardstanding within the site shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway and retained in perpetuity.
7. The vehicular access shall be constructed in accordance with the details approved under application 20/00220/DISB, drawing numbers 02/2176A/19 and 14/2176A/19.
8. The materials to be used in the construction of the dwelling must be in accordance with the details approved under application 20/00220/DISA, drawing number 05a/2176A/19 Rev B, dated 11th August 2020.
9. The scheme of biodiversity improvements shall be carried out in accordance with the details approved under application 20/00220/DISB, drawing number 02/2176A/19.