



Appeal Decision

Site Visit made on 20 July 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2021

Appeal Ref: APP/W0530/W/21/3267680

41 Fen Road, Bassingbourn Cum Kneesworth SG8 5PQ

- 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 Ian Hannant against the decision of South Cambridgeshire District Council.
 - The application Ref 20/02510/S73, dated 22 October 2019, was approved on 28 August 2020 and planning permission was granted subject to conditions.
 - The development permitted is Variation of condition 2 (approved plans) of planning permission S/2256/16/FL.
 - The condition in dispute is No 5 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Classes A,B and E of Part 1 of Schedule 2 of the Order shall take place unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.*
 - The reason given for the condition is: *In the interests of protecting the character of the area in accordance with Policy HQ/1 of the adopted Local Plan.*
-

Decision

1. The appeal is allowed and the planning permission Ref 20/02510/S73 for Variation of condition 2 (approved plans) of planning permission S/2256/16/FL, at 41 Fen Road, Bassingbourn Cum Kneesworth SG8 5PQ granted on 28 August 2020 by South Cambridgeshire District Council, is varied by deleting condition No 5.

Procedural Matters

2. The appeal was originally lodged in connection with the Council's refusal of permission to vary or remove a condition. However, the Decision Notice (DN) for the planning application did not include refusal to remove Condition No 6 from the original application (reference: S/2256/16/FL). Rather, Condition No 2 was amended on the DN to refer to revised plans and the planning permission issued on that basis, along with that condition and those not discharged. Therefore, I explained to the main parties that I intended to consider the appeal in relation to the imposition of the disputed planning condition. As the cases advanced by the main parties were already focused in this manner, they would not be prejudiced by this course of action. I have therefore determined the appeal on this basis.
3. This decision and planning permission 20/02510/S73 should be read together, as a new separate planning permission would not be created.

4. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had the opportunity to comment upon the relevance of any of its revised content and I have had regard to any responses received in my decision.

Background and the Main Issue

5. Planning permission for the proposal included the disputed planning condition, which removes permitted development rights for alterations and extensions to the proposed dwelling, including to its roof, and for other structures within its curtilage. The Council's statement indicates that the condition is necessary to protect the character of the area. In light of this, the main issue is whether or not the condition is reasonable and necessary in the interests of the protection of the character of the area.

Reasons

6. Paragraph 56 of the Framework requires that planning conditions 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. Furthermore, paragraph 54 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. Advice in relation to such matters is also provided in the Planning Practice Guidance¹. This states that the blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
7. The Council has explained that the disputed planning condition was applied due to the increase in the volume from the original dwelling on the site to the replacement dwelling. I acknowledge that it would also enable the Council to retain a measure of control over future development to protect against harm to the character of the area. However, there is nothing extraordinary about the site or dwelling that would set it apart from others within the locality and, despite some gaps in the mature tree and hedge planting of the site, it is of such high quality that it enables it to integrate with its surroundings.
8. Furthermore, the Council has confirmed that the replacement dwelling will be similar in size to others nearby and the outbuilding within its garden replaces four older outbuildings. I am also not aware of any other properties in the immediate locality without permitted development rights, so these could be altered, in accordance with those rights, without the need for planning permission.
9. There is therefore no substantive evidence before me to suggest that future development of the appeal property, enabled by full permitted development rights, would result in greater harm than similar development associated with other residential properties within the locality. Moreover, the Council make vague assertions as to the potential impact of additional built form within the site on the character of the area.
10. The Council has referred to policy HG/7 of its former Development Plan², which included reference to the maximum enlargement of the volume of replacement

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

² South Cambridgeshire LDF Development Control Policies Development Plan Document (adopted July 2007).

dwellings by fifteen percent. However, that plan was replaced by the South Cambridgeshire Local Plan 2018 (the LP) and the Council has suggested that the policies therein do not contain the same restriction. I have also not been referred to any policies that allude to the removal of permitted development rights.

11. In light of the above, I conclude that the condition is not reasonable or necessary in the interests of protecting the character of the area. Hence, the proposal would accord with the design aims of policy HQ/1 of the LP.

Conclusion

12. For the reasons outlined above, I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR