



Appeal Decision

Site Visit made on 16 August 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st August 2021

Appeal Ref: APP/Q3115/W/21/3272530

The Garage, Horton Road, Beckley, Oxfordshire OX33 1AG

- 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 Paul Morris against the decision of South Oxfordshire District Council.
 - The application Ref P20/S1876/FUL, dated 28 September 2020, was approved on 2 March 2021 and planning permission was granted subject to conditions.
 - The development permitted is Relocation of Consented Permission P19/S4512/FUL and the demolition of the garage and reinstatement to former use with minor amendments to the consented Elevations & Floor Plans.
 - The condition in dispute is No 14 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), the enlargement, improvement or other alteration of any dwellinghouse as described in Schedule 2, Part 1, Classes A, B, C, D and E of the Order shall not be undertaken without obtaining planning permission from the Local Planning Authority.
 - The reason given for the condition is: To protect the openness, character and appearance of the Green Belt and to ensure sufficient outdoor amenity space is retained for future occupiers of the property in accordance with Policies STRAT6 and DES5 of the South Oxfordshire Core Strategy 2035.
-

Decision

1. The appeal is allowed and the planning permission Ref P20/S1876/FUL for Relocation of Consented Permission P19/S4512/FUL and the demolition of the garage and reinstatement to former use with minor amendments to the consented Elevations and Floor Plans at The Garage, Horton Road, Beckley, Oxfordshire OX33 1AG granted on 2 March 2021 by South Oxfordshire District Council, is varied by deleting Condition 14 and substituting for it the following condition:
 - 14) 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), the enlargement, improvement or alteration of a dwellinghouse, or the erection of any building incidental to the enjoyment of a dwellinghouse, as described in Schedule 2, Part 1, Classes A and E of the Order shall not be undertaken without first obtaining planning permission from the Local Planning Authority.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties to this appeal have had the

opportunity to comment upon any relevance of this to the outcome of the appeal.

3. The appellant has set out that permitted development rights falling under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO) are broad and has accepted that restricting their future use is both fair and reasonable. I shall consider the appeal on this basis and shall primarily focus upon the respective merits of withdrawing rights falling under Classes A, B, C and D.

Main Issues

4. The main issues are:

- Whether or not the disputed condition is reasonable and necessary in the interests of protecting the openness and character and appearance of the Green Belt; and
- Whether or not the disputed condition is reasonable and necessary in the interests of protecting the living conditions of future occupiers, having particular regard to the availability of outdoor amenity space.

Reasons

Green Belt

5. The Framework sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Indeed, the Planning Practice Guidance indicates that a 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.
6. The main body of the appeal site is set away from Horton Road and the well-vegetated nature of its immediate surroundings point towards any potential permitted additions to the dwelling having a discreet visual presence and having an acceptable effect in character and appearance terms. Even so, Green Belt openness has a spatial element as well as a visual element and I must consider the merits of this appeal accordingly.
7. The site's planning history is also an important factor. Indeed, it is apparent that very special circumstances were identified to justify the erection of a dwelling of the particular size, configuration and positioning that was permitted in March 2021. In this context it was understandable that the Council applied caution when considering their options to restrict future freedoms to carry out domestic alterations and additions.
8. The disputed condition restricts the future use of a range of permitted development rights related to development within the curtilage of a dwellinghouse. As regards future work that could be carried out under Schedule 2, Part 1, Class A of the GPDO, this would encompass enlargements, improvements and other alterations to a dwellinghouse. The site lends itself to accommodating potentially sizeable extensions of meaningful footprint and volume that could realistically, in combination, constitute disproportionate or excessive additions and lead to a material loss of Green Belt openness. I thus identify justification for withdrawing rights falling under Class A.

9. The rights that fall under Classes B, C and D of Part 1 of the Order relate to roof additions, roof alterations and porches. Most particularly when noting the shallow-pitched design of the dwelling's approved roof form and the size/positional constraints that would apply to any permitted porch, the future development opportunities offered would be constrained. I thus find that, even when acknowledging the site's Green Belt location, it was overly onerous and not merited to apply restrictions under Classes B, C and D.
10. For the above reasons the disputed condition is reasonable and necessary in the interests of protecting the openness of the Green Belt, but only in so far as it relates to future works falling under Schedule 2, Part 1, Classes A and E of the GPDO and not in so far as it relates to works falling under Classes B, C and D. As such, should the disputed condition be altered in accordance with my reasoning set out above, there would be compliance with Policy STRAT6 of the South Oxfordshire Local Plan 2011-2035 (adopted November 2020) (the Local Plan) and with the Framework in so far as these policies acknowledge that the essential characteristics of Green Belts are their openness and their permanence.

Living conditions

11. The dwelling, as approved, would be served by a curtilage of fairly restricted extent. It is also the case that, owing to the provision of parking and turning space to the site's front, available outdoor garden space would be focussed to the rear of the property. Even so, I am sufficiently satisfied that potential permitted works falling under the Classes set out in the disputed condition (including Class E) would not, even in combination, hold the realistic potential to unduly impinge upon the extent of outdoor amenity space offered to future occupiers. Indeed, it is relevant to note that the external area to the dwelling's rear (as depicted on the approved site plan) noticeably exceeds the footprint of the dwelling itself.
12. For the above reasons I find that the disputed condition is neither reasonable nor necessary in the interests of protecting the living conditions of future occupiers, having particular regard to the availability of outdoor amenity space. As such, should the disputed condition be deleted, there would be compliance with Policy DES5 of the Local Plan in so far as it requires the amount of land to be provided for garden or amenity space to be determined by the size of the dwelling proposed and by the character of surrounding development. For the avoidance of doubt, this finding does not alter my conclusions with respect to the first main issue in this appeal.

Conclusion

13. For the above reasons the appeal is allowed. I shall vary the planning permission by deleting and substituting disputed Condition 14.

Andrew Smith

INSPECTOR