



Appeal Decision

Site visit made on 9 August 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2021

Appeal Ref: APP/N4720/W/21/3273745

The Ferns, Tithe Barn Lane, Bardsey, Leeds LS17 9DX

- 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 and Mrs Broadbent against the decision of Leeds City Council.
 - The application Ref 20/06773/FU, dated 15 October 2020, was refused by notice dated 25 March 2021.
 - The application sought planning permission for two storey front and side extension without complying with condition attached to planning permission Ref 11/04035/FU, dated 21 December 2011.
 - The condition in dispute is No 4 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Orders revoking or re-enacting that Order with or without modification) planning permission shall be obtained before any extensions, garages or outbuildings are erected within the curtilage of the dwellinghouse.*
 - The reason given for the condition is: *As the Local Planning Authority wish to keep control over the erection of these buildings.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for this appeal. I have had regard to the revised Framework in reaching my decision.
3. I have been provided with a copy of Drawing No 1779/01 which specifies the boundary of the original planning permission. I have determined this appeal on the basis of that drawing, and not the Site Location Plan submitted with the application which relates to a wider land holding.

Background and Main Issue

4. The appeal site is within the Green Belt. The site is also located within the Bardsey-cum-Rigton Conservation Area. However, the Council's reason for refusal refers only to the effect on the character and openness of the Green Belt, and I have proceeded to determine this appeal on that basis.

5. The main issue is whether the condition is reasonable and necessary with regards to the character and openness of the Green Belt.

Reasons

6. The appellant seeks to vary the disputed condition so that references to "garages and outbuildings" are removed.
7. Permitted development rights have not been withdrawn in the Green Belt in the GPDO¹. However, even within the limitations of the GPDO, extensive outbuildings could be constructed under the appeal property's permitted development rights. The appeal site has an extensive garden to the rear, which is visible from the public realm, including through an access leading from a track to the side of the property. The garden is of an open character and contributes to the openness of the Green Belt.
8. Policy HDG3 of the Council's Householder Design Guide 2012 (HDG) sets out that, in the Green Belt, extensions should not exceed 30% over and above the original house volume. Development proposals which exceed that figure are considered to be inappropriate development. The evidence suggests that previous extensions to the appeal property amount to over a 30% increase in volume.
9. The appellants submit that the 30% limitation relates to an increase in the size of the original dwelling and not outbuildings. However, the HDG is clear that reference to 'extension' means any additions to the dwelling, including garages and outbuildings.
10. Due to the previous extensions to the dwelling, the extent and visibility of the appeal site, and the provisions of the HDG, the local circumstances of this site are such that there is a clear justification to restrict national permitted development rights to maintain the character and openness of the Green Belt.
11. The appellants refer to the Planning Practice Guidance (the Guidance) and submit that it states that "conditions restricting the future use of Permitted Development rights will rarely pass the test of necessity and should only be used in exceptional circumstances"². However, that wording has been superseded³ and does not form part of the current Guidance. In particular, there is no longer a requirement to demonstrate "exceptional circumstances" in imposing such a condition.
12. I have had regard to the appeal decisions referred to by the appellants, however these decisions are not directly comparable to the appeal before me either with regards to the most recent Guidance or Council policy.
13. I am mindful that the appeal proposal would give the appellants more flexibility to add or replace outbuildings without having to apply for planning permission. However, this private benefit would not outweigh the planning considerations regarding the protection of Green Belt land.
14. For the above reasons, I conclude that the disputed condition is both reasonable and necessary with regards to protecting the character and openness of the Green Belt. Its removal would be contrary to policy N33 of the

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

² Paragraph Ref: 21a-017-20140306 (now superseded)

³ By Paragraph Ref: 21a-017-20190723

Unitary Development Plan⁴, the HDG and the Framework with regards to protecting Green Belt land.

15. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR

⁴ Leeds UDP Review – Volume 1: Written Statement – Adopted July 2006