



Appeal Decision

Site visit made on 23 August 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/K3415/W/21/3274834

Lynn Grange, Lynn Lane, Lynn, Lichfield WS14 0EP

- 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 Julian Jordan against the decision of Lichfield District Council.
- The application Ref 20/00454/FUL, dated 24 March 2020, was refused by notice dated 24 November 2020.
- The application sought planning permission for a replacement dwelling without complying with conditions attached to planning permission Ref 00/01012/OUT, dated 18 December 2000.
- The conditions in dispute are Nos 4 and 5 which state that:
 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling(s) hereby permitted shall not be enlarged or extended without the prior permission of the Local Planning Authority.
 5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no buildings, enclosures or other structures required for a purpose incidental to the enjoyment of the dwellinghouse(s) shall be erected within the curtilage of the approved dwelling(s) without the prior permission of the Local Planning Authority.
- The reasons given for the conditions are:
 4. To ensure that the approved development does not have a materially greater impact upon the character and openness of this part of the Green Belt (Policies DC7, E4 and E5).
 5. To ensure that the approved development does not have a materially greater impact upon the character and openness of this part of the Green Belt (Policies DC7, E4 and E5).

Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at Lynn Grange, Lynn Lane, Lynn, Lichfield WS14 0EP in accordance with the application Ref 20/00454/FUL dated 24 March 2020, without compliance with condition numbers 1, 2, 3, 4, 5 and 8 as well as the time limit condition previously imposed on planning permission Ref 00/01012/OUT dated 18 December 2000 and subject to the conditions set out in the schedule of this decision.

Preliminary Matters

2. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the 'Framework') has been published. The main parties were given the opportunity to comment on any relevant implications for the appeal

and have not therefore been prejudiced. The main parties did not have any comments on this matter.

3. I acknowledge that the Officer's Report notes that the appeal site is located within the Cannock Chase Special Area of Conservation (SAC) 8-15km zone of influence. Although not forming part of the Council's reason for refusal, it is incumbent upon me as the competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the SAC. It is necessary to consider this matter as a main issue.

Background and Main Issues

4. The appeal site is located within the Green Belt. Outline planning permission was granted in December 2000 for a replacement dwelling¹. The appellant seeks to remove conditions 4 and 5 of that permission which relate to permitted development rights.
5. The main issues are therefore:
 - Whether conditions 4 and 5 are necessary and reasonable in the interests of the character and openness of the Green Belt; and
 - The effect of removing conditions 4 and 5 on the integrity of the SAC.

Reasons

Green Belt

6. Conditions 4 and 5 remove permitted development rights to extend the dwelling and to prevent the erection of any buildings, enclosures or other structures. They in effect restrict permitted development rights in a 'blanket' way. Permitted development rights do not differentiate between areas within or outside of the Green Belt. Furthermore, there is no requirement within its terms to test whether the proposed development would be inappropriate or impact the character and openness of the Green Belt.
7. 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. The Planning Practice Guidance (PPG) sets out that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity².
8. The original application relates to a replacement dwelling and the appeal dwelling benefits from a large curtilage. I acknowledge that planning permission has been granted for an extension to the rear of the host dwelling. There is no substantive evidence before me which demonstrates that the replacement dwelling was significantly larger than the one it replaced or that the previous dwelling also had conditions restricting permitted development rights.
9. The removal of the conditions would allow future occupiers to increase the built form, within the appeal site, without the need for planning permission. Without the conditions occupiers could extend the dwelling and erect buildings, as well

¹ 00/01012/OUT

² Paragraph: 017 Reference ID: 21a-017-20190723

- as fences, within the curtilage of the dwelling under permitted development rights.
10. The appeal site is well screened by existing mature trees and hedging. Even if some of the trees or hedging were removed, the appeal dwelling would not be prominent within the surrounding area because of its set back from the road. Based on the evidence before me and my site visit observations, there are no public rights of way close to the appeal site. I also note that a detached building could not be constructed, under permitted development rights, in front of the principal elevation of the dwelling. Consequently, I am satisfied that development which could be carried out under permitted development rights would not be widely conspicuous from public vantage points.
 11. The surrounding area is characterised by open fields and sporadic built development. Dwellings within the surrounding area vary in design and scale. The Council has not demonstrated that the character of the host dwelling or the wider surrounding area requires special protection to the extent that permitted development rights should be withdrawn.
 12. I acknowledge the Council's desire to control future development within the appeal site due to its Green Belt location. However, having regard to paragraph 55 of the Framework and the PPG, as well as the context of the appeal site, the Council has not clearly justified the need for the conditions within this location. There is no evidence before me that the outline planning application would have been refused without the conditions being imposed.
 13. Both main parties have drawn my attention to appeal decisions, including an appeal relating to the removal of permitted development rights also on Lynn Lane. Limited information has been submitted with regards to these decisions and I am unable to directly compare them to the scheme before me. In any event, I have determined the appeal on its individual merits.
 14. Accordingly, I consider that conditions 4 and 5 are not reasonable or necessary in the interests of the character and openness of the Green Belt. The removal of these conditions would not conflict with the purposes of including land within the Green Belt. As such, I find no conflict with Policies BE1, Core Policy 2, Core Policy 3 and NR2 of the Lichfield District Local Plan Strategy 2008 – 2029 (2015). These seek, amongst other matters, to protect and enhance the character and distinctiveness of the area as well as retaining the Green Belt's character and openness.
 15. The removal of the conditions would also not conflict with the Sustainable Design Supplementary Planning Document (2015, updated 2019) or the Framework.

Effect on the SAC

16. The conditions relate to a dwelling which has been erected and replaced a previous dwelling. The reasons for the conditions did not relate to the SAC. Given the nature of the appeal, I am satisfied that there would be no likely significant effect from the conditions being removed. Therefore, there would be no adverse effect on the integrity of the European site.

Conditions

17. The PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect³. As I have no information before me about the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant.
18. Based on the evidence submitted, conditions 1, 2, 3 and 8, which relate to outline matters, plans and demolition, are clearly no longer needed since the development has already been carried out. The time limit condition is also no longer needed for this reason. For completeness, I have re-imposed all the other conditions, and these can be addressed as appropriate by the appellant and Council.

Conclusion

19. I therefore conclude that the appeal should be allowed and grant a new planning permission without the disputed conditions, as well as those conditions which are no longer relevant.

L M Wilson

INSPECTOR

³ Paragraph: 040 Reference ID: 21a-040-20190723

Schedule of Conditions

- 1) The proposed dwelling shall not exceed a volume of 610 cubic metres, such limit shall exclude garaging provision which shall be subject to limitations imposed at condition 4.
- 2) The ridge height of the approved dwelling shall not exceed 7 metres.
- 3) The permission hereby granted does not authorise the felling, topping or lopping of any trees on the site which are the subject of Tree Preservation Order No. 49, 1973.
- 4) Notwithstanding the limitations imposed by virtue of condition 1, any ancillary domestic buildings shall not exceed a floor area of 45 sq. metres, or a volume of 170 cubic metres, whichever is the lesser.