



Appeal Decision

Site visit made on 18 November 2021

by R W Allen B.Sc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2021

Appeal Ref: APP/W0530/W/21/3272766

Church View, Newmarket Road, Stow-Cum-Quy, CB25 9AQ

- 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 Flack against the decision of South Cambridgeshire District Council.
 - The application Ref 20/05393/S73, dated 30 December 2020, was refused by notice dated 18 March 2021.
 - The application sought planning permission for external alterations and conversion of offices to dwelling and part change of use of paddock land to garden land without complying with a condition attached to planning permission ref S/1929/13/FL, dated 21 November 2013.
 - The condition in dispute is No 7 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no development within all classes of Part 1 of Schedule 2 of the Order and no development within Class A of Part 2 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: *To safeguard the character of the area in accordance with Policy GB/1 of the adopted Local Development Framework 2007.*
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Decision

1. The appeal is allowed, and planning permission is granted for the development of land without complying with condition 7 (permitted development rights) of planning permission S/1929/13/FL (External Alterations and Conversion of Offices to Dwelling and Part Change of Use of Paddock Land to Garden Land) at Church View, Newmarket Road, Stow-Cum-Quy CB25 9AQ in accordance with the terms of the application, Ref 20/05393/S73, dated 30 December 2020.

Preliminary Matters

2. I note that the original Local Plan policy GB/1, on which Condition 7 was reasoned, has since been superseded by Local Plan¹ policy S/4. The secondary legislation cited in the condition has also been replaced by the 2015 GPDO². I shall determine the appeal on the updated policy and legislation accordingly.

¹ South Cambridgeshire Local Plan 2018

² Town and Country Planning (General Permitted Development) Order 2015 – Schedule 2, Part 1 and Class A of Part 2

Main Issue

3. The main issue is whether the condition in question is necessary to prevent inappropriate development in the Green Belt and from causing harm to its openness.

Reasons

4. The appeal property is a single-storey detached dwelling house within a reasonably-sized plot and is enclosed on all sides with fencing and gates. It sits at the end of a ribbon development of detached properties fronting what I observed to be the heavily used A1303 Newmarket Road, and is also a short distance from the intersection with the A14 dual carriageway.
5. The Council states that the building was once associated with the neighbouring dwelling and was previously in agricultural, followed by an office use. But, aside from a recessed front wall and large overhanging eaves, there are very little clues to suggest this building was anything other than a dwelling. This is because it appears to have been extensively renovated and extended such that it displays a conventional appearance including rendered walls and typically domestic fenestration arrangements. The property contains a large outbuilding to the rear. This is not an uncommon feature as many of the neighbouring dwellings also have various sized structures in the respective rear gardens.
6. In granting planning permission for this building to become a dwelling in 2013, the Council removed its permitted development rights as prescribed in Part 1, and Part 2 Class A of Schedule 2 of the GPDO. The Council states that, being within the Green Belt, future owner/occupiers would otherwise be able to carry out works which could double the scale of the dwelling. This, they say, would be disproportionate and harmful to the Green Belt in policy terms.
7. Protection of the Green Belt from urban sprawl and to keep land permanently open is defined in paragraph 137 of the Framework³. Paragraph 149 states that the construction of new buildings in the Green Belt should be regarded as inappropriate; but lists development that would amount to exceptions. Pertinent to this appeal is criterion c), which is for the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. The term "disproportionate" is not defined.
8. The GPDO sets out certain types of development that, amongst other things, dwelling houses can undertake without the need to apply for planning permission. This is not altogether unrestricted, as for example some types of permitted development may be excluded for properties within a conservation area, or within a National Park. Critically, the GPDO places no restrictions on permitted development rights in Green Belts. I find it reasonable to conclude that had it been the intention of Government to limit permitted development rights in the Green Belt, it would have done so. It therefore follows that the permitted development rights for a dwelling in the Green Belt does not harm openness and is not disproportionate in the first instance.
9. The Guidance⁴ gives a clear steer on the use of planning conditions in this way. It states that "*conditions restricting the future use of the permitted*

³ National Planning Policy Framework (July 2021)

⁴ Planning Practice Guidance – paragraph 017 Reference ID: 21a-017-20190723

development rights...may not pass the test of reasonableness or necessity...area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity."

10. In my view, the Framework and GPDO start with the presumption that a new dwelling in the Green Belt should be allowed to enjoy its permitted development rights. It is then for the decision maker to assess and explain why an individual class or classes within the relevant parts of the GPDO would harm openness in a specific case, necessary to justify the need for a restrictive condition. The Council's blanket ban approach on fear of what might happen is not an adequate assessment of the harm, is inconsistent with national policy and guidance, and accordingly is not a sufficient reason to remove permitted development rights.
11. Having regard to the character of the appeal site and the immediate surrounding area, I am not persuaded that this property even if extended as per its permitted development rights would harm or erode openness of the Green Belt. Furthermore, I am satisfied that the GPDO provides for sufficient safeguards to prevent over-development of a site. These include not allowing development from exceeding 50% of the total area of the curtilage (excluding the ground area of original dwelling house), and from extending beyond a wall forming the principal elevation of the original dwelling house.
12. I therefore find that the removal of the said condition would not lead to disproportionate additions to the property, and it would not harm openness of the Green Belt. It would accord with Local Plan policy S/4 which seeks to protect the Cambridge Green Belt from inappropriate development in accordance with the Framework. It would also accord with the relevant parts of the Framework.

Other Matters

13. Section 66(1) of the 1990 Act⁵ requires special regard should be given to the desirability of preserving the setting of listed buildings. This means that considerable weight and importance must be given to any harm caused to the designated heritage assets in the planning balance, and this includes any harm to the setting of listed buildings.
14. St Mary's parish church lies to the west of the appeal property. The building is Grade II* listed, with the listing description stating that the oldest parts of the church date from the 12th Century. Its significance is derived from its architectural and historic interest, with setting strongly contributing to the significance owing to its surroundings within its own grounds, and viewpoints in which the building can be experienced. I observed the building to be both charming and attractive.
15. The Council has not raised an objection over concerns over the effect of the removal of condition 7 in this regard. I am satisfied that the distance between the church and the appeal property is sufficient that any additions to the property undertaken under permitted development rights would not undermine or cause harm to the significance of the heritage asset. For these reasons,

⁵ The Planning (Listed Building and Conservation Areas) Act 1990

there is no need for me to engage the balancing exercise within paragraph 202 of the Framework and I have discharged my statutory duty in this regard.

Conditions

16. The previous permission was subject to seven planning conditions. The conditions, excluding the appeal condition, relate to the carrying out of the development in accordance with the approved plans; the submission of materials and boundary treatments; and for the submission of hard and soft landscaping. The Council has made no submissions on whether any of these conditions, either in part or in full, are necessary to be reimposed here. Because they relate predominately to pre-construction submissions and where any time limitations have long passed, I find that none need to be reimposed to this decision.

Conclusion

17. For the reasons given above, I conclude that the appeal is allowed.

R W Allen

INSPECTOR