



Appeal Decision

Site visit made on 24 November 2021

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2021

Appeal Ref: APP/R0660/W/21/3278387

Trafford House Farm, Beswicks Lane, Alderley Edge, Cheshire SK9 7SN

- 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 David Horsey against the decision of Cheshire East Council.
 - The application Ref 20/4659M, dated 16 October 2020, was approved on 29 April 2021 and planning permission was granted subject to conditions.
 - The development permitted is variation of condition 2 on approval 20/0729M.
 - The conditions in dispute are Nos 4 and 7 which state that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Classes A, B, C, D, E and F of Part 1 Schedule 2 of the Order shall be carried out'* and *'prior to the commencement of construction of the approved dwelling all existing buildings shall be demolished and/or removed'*.
 - The reasons given for the conditions are: *'to ensure continued control over the extent of further building on the site'* and *'In the interests of openness of the green belt'*
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Decision

1. The appeal is allowed and the planning permission Ref 20/4659M for Variation of condition 2 on approval 20/0729M at Trafford House Farm, Alderley Edge SK9 7SN granted on 29 April 2021 by Cheshire East Council, is varied by deleting conditions Nos 4 and 7 and substituting the following condition:

6) Within six months of the occupation of the dwelling hereby approved, all existing buildings and structures not shown on plans 882B-PA-01B and 882B-PA-02, shall be demolished and/or removed.

Preliminary Matters

2. The original planning application (20/0729M) was for the construction of one two-storey dwelling and double garage which would replace the existing dwelling on site. A further application was approved (20/4659M) which varied the original planning permission by, amongst other things, relocating the dwelling on the site. This varied approval reimposed condition 4 which removes permitted development rights and included an additional condition (No 7). It is these conditions which are the subject of this appeal before me.

Main Issues

3. The main issues are:
 - Whether condition 4 to restrict permitted development rights (Classes A to F) is necessary, relevant to the development and reasonable, having

particular regard to the location of the site within the Green Belt and the living conditions of the occupiers of the neighbouring property; and

- Whether condition 7 requiring the removal of the existing buildings prior to the construction of the approved dwelling is necessary, relevant to the development and reasonable, having particular regard to the location of the site within the Green Belt.

Reasons

Condition 4

4. The Government's Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. Paragraph 54 of the National Planning Policy Framework (the Framework) makes clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
5. The original planning permission was granted for a replacement dwelling according to the Council's officer report, amongst other reasons, as the overall scale of built form was significantly smaller if measured against the building prior to the implementation of a previously approved application (15/5237M) (the fallback position). In this regard the Council considered the schemes impact on the green belt to be slightly beneficial.
6. The thrust of the Council's concerns is that further extensions undertaken as permitted development rights could lead to a situation whereby the cumulative quantum of built form exceeds that envisaged under Policy PG3 of the Cheshire East Local Plan Strategy 2010 - 2030 (CELPS) (2017) and the Framework and would ultimately harm the openness of the Green Belt.
7. Part 1 of Schedule 2 of the General Permitted Development Order specifically includes limitations on the use of permitted development in certain locations, such as areas of outstanding natural beauty and conservation areas. However, it specifically does not include any limitations or preclusions for land in the Green Belt. The inference from this is that the Government does not seek to generally impose such additional limitations on domestic extensions within the Green Belt.
8. There is no evidence before me that the original dwelling does not benefit from permitted development rights. The retention of the condition in question, would mean that the replacement dwelling has restrictions placed upon it that many other dwellings in the Green Belt would not be burdened by.
9. Without the condition, restrictions serving to limit any impact upon Green Belt openness would still apply as the permitted development regulations applies restrictions on the size of future extensions that can be built. As such, any future works that go beyond the permitted development allowances would be subject to the usual scrutiny through a planning application.
10. I acknowledge that further extensions might be constructed in the future which could take the building over the cumulative increase that the Council might wish to allow. However, I have no firm evidence regarding the likelihood of such a scenario. Moreover, some of the restrictions imposed relate to minor

alterations such as porches, the harm from which has not been clearly set down.

11. Having regard to the Council's assessment that the approved replacement dwelling would be an improvement from the fallback position, based on the submissions, the Council has not highlighted any other site-specific features, constraints or context that would warrant an enhanced level of restriction or control on an exceptional basis.
12. The appeal site is a large plot on a corner site in a rural setting. There are other neighbouring properties nearby including several large buildings however, only one bordering the site. This property is a large, detached dwelling also set in spacious grounds. Given the location of the existing neighbouring property and the approved dwelling away from the common boundary and the size of the plots, there is no substantive evidence as to how any of the permitted development rights restricted by condition 4 would impact on the living conditions of the occupiers of this or any other neighbouring property.
13. I recognise the importance of the continued protection and maintenance of the Green Belt as addressed by Policy PG3 of the CELPS and the Framework. However, I am not persuaded by the Council's submissions that a case has been properly made to support the continued imposition of a condition removing permitted development rights on the appeal site as an exceptional circumstance.
14. I therefore find that condition 4 is not reasonable or necessary to make the development acceptable in the context of the site's location within the Green Belt and relationship to neighbouring properties. In this regard, there would be no conflict with the requirements of Policy PG3 of the CELPS or the Framework which stipulates, amongst other things, that planning permission will not be granted for inappropriate development in the green belt except in very special circumstances.

Condition 7

15. Broadly speaking, the Council imposed condition 7 to ensure that the original dwelling did not remain on site following the completion of the replacement dwelling, thus resulting in a quantum of built form which it considers to be at odds with Policy PG3 of the CELPS and the Framework. However, its timing would mean that the original dwelling would need to be demolished prior to construction, leaving the occupiers without a home during the construction period. Moreover, this pre commencement condition was not agreed with the appellant prior to its inclusion.
16. There are no firm reasons why there would be unacceptable harm during the construction period if the original dwelling were to remain occupied whilst construction was being undertaken. Moreover, the effect on the living situation of the occupiers, in effect requiring them to seek alternative accommodation during construction, would not be reasonable.
17. However, I do consider that it is necessary to control the timing of the removal of the original dwelling. Otherwise, it would be difficult to define and control when the development is complete to enforce the removal of the dwelling. In this regard a timeframe of 6 months after the first occupation of the approved dwelling is a reasonable requirement. This would ensure that the removal of

the dwelling is enforceable, and that the development would be completed in accordance with Policy PG3 of the CELPS and the Framework.

18. I therefore find that condition 7, as written, is not reasonable or necessary to make the development acceptable in the context of the site's location within the Green Belt. However, an alternatively worded condition, adjusting the timeframes for the demolition of the existing buildings, is both reasonable and necessary. In this regard, there would be no conflict with the requirements of Policy PG3 of the CELPS or the Framework.

Conclusion

19. I therefore conclude that the appeal should be allowed, and that the permission should be varied as indicated by deleting disputed conditions 4 and 7 and substituting a modified condition 7 (re-numbered condition 6) relating to the removal of the existing buildings.

Mr R Walker

INSPECTOR