



Appeal Decision

Site visit made on 12 January 2022

by **S Tudhope LLB (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 February 2022

Appeal Ref: APP/W3520/W/21/3272027

Land east of Bickers Hill Road, Laxfield, Woodbridge, Suffolk IP13 8EZ

- 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 Adam Fairbrother against the decision of Mid Suffolk District Council.
 - The application Ref DC/20/04760, dated 24 October 2020, was approved on 26 January 2021 and planning permission was granted subject to conditions.
 - The development permitted is change of use of land from agricultural to domestic (garden extensions and provision of landscaping). Erection of shed, greenhouse and rainwater storage vessel.
 - The condition in dispute is No 4 which states that: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of Article 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):-
-no additional building, structure, means of enclosure, hardstanding, fence, gate, or wall shall be erected on the site, except pursuant to the grant of planning permission on an application made in that regard.
 - The reason given for the conditions is: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the banner heading above I have used the address of the site as stated in the Council's decision notice, as this satisfactorily identifies the site and only differs marginally from that given in the original planning application.

Main Issue

3. The main issue is whether condition 4 is necessary, having particular regard to the effects upon the character and appearance of the area and the living conditions of the occupiers of neighbouring properties.

Reasons

4. The permission for the change of use of agricultural land to domestic garden, includes the erection of a single shed, subdivided internally to provide two sheds, a rainwater storage vessel, a greenhouse and post, rail and wire mesh fencing both around and within the site. Permitted development rights were removed by condition to control any future development.

5. The National Planning Policy Framework (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) 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
6. The appeal site originally formed part of a wider parcel of agricultural land that extends to the east and north. I note that part of this parcel has since been granted permission for the erection of 8 dwellings, north of No 3 Bickers Hill Road. The remainder of the wider field is largely open, set to grass and in use for grazing horses. Agricultural land also extends south of the site, separated from it by a ditch and mature native hedgerow. Notwithstanding the erection of recently approved residential development on both sides of Bickers Hill Road and the presence of nearby allotments with their associated sheds and structures, the prevailing character of the appeal site's immediate surroundings is semi-rural and verdant, with a sense of spaciousness provided by long views across the open flat fields.
7. Even with over half of the appeal site being retained for agricultural purposes, the area of the site granted permission for use as domestic garden land, in conjunction with Nos 4 and 5 Bickers Hill Road, is significantly greater than the size of the original gardens associated with these properties and those of the rest of the row of dwellings. The approved gardens stretch beyond the original plot widths, thereby extending behind the rear gardens of neighbouring properties. The fencing and outbuildings included in the permission have been sited in positions, and are of a type, that largely retain the sense of openness and paddock like appearance of the site, allowing the change of use to sit comfortably in its surroundings.
8. It is possible that unfettered use of permitted development rights, pertaining to both the permitted garden areas and the area retained as agricultural land, has the potential to fundamentally alter the otherwise low-key nature of the approved development. Further extending built form eastwards, including by way of the erection of fencing and provision of areas of hardstanding, could considerably alter the appearance of the site, and significantly harm the character and appearance of the area, by failing to respect the surrounding context beyond the site boundaries.
9. Whilst there is no right to a view, such development also has the potential to result in some limited harm to the living conditions of the occupiers of neighbouring properties. This would be by way of the potential resultant loss of the existing semi-rural outlook and the negative impact of this on visual amenity.
10. This is not to suggest that the appellant has any intention of erecting more than an additional shed or workshop for hobby purposes, or the laying of a patio area. However, the planning permission runs with the land and future owners could have different intentions.
11. I acknowledge that it would be possible to plant fast growing conifer hedging which has the potential to completely change the local distinctiveness. However, this is not in itself development under section 55 of the Town and Country Planning Act 1990 (as amended) for which planning permission is

required. This matter does not therefore garner support for the removal of Condition 4.

12. The removal of permitted development rights as specified in Condition 4, will not prevent the appellant or their successors from making planning applications for any additional building or other development matters covered by the condition. I find that the condition has been imposed to retain some control over small scale developments at the site which have the potential to cause unacceptable harm in the manner set out above.
13. Accordingly, I find that there is clear justification for the removal of the permitted development rights as provided for under Condition 4. The Condition is both reasonable and necessary in order to protect the character and appearance of the area and the living conditions of the occupiers of neighbouring properties. Furthermore, I am satisfied that the tests of conditions set out in the Framework and PPG have been met. As a result, I conclude that the condition should be retained as imposed.

Other Matters

14. I note the support for the removal of Condition 4 given by the Parish Council and its reference to the imposition of this condition being inconsistent with neighbouring applications previously submitted. However, I have not been provided with any detailed information in this regard, so I am unable to make any reasonable comparison with the appeal proposal. These matters do not lead me to a different conclusion on the main issue.
15. Notwithstanding any informal advice provided by the Council, I have considered the appeal in relation to its formal decision and the planning merits of the case.

Conclusion

16. For the above reasons the appeal is dismissed.

S Tudhope

INSPECTOR