



Appeal Decision

Site visit made on 8 March 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/R3705/W/21/3287048

Arden Croft, Church Lane, Maxstoke B46 2QN

- 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 Robert Lane against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2021/0406, dated 29 June 2021, was refused by notice dated 6 September 2021.
 - The application sought planning permission for erection of single storey new detached garage and side extension without complying with a condition attached to planning permission Ref PAP/2016/0148, dated 25 April 2016.
 - The condition in dispute is No 5 which states that: No development whatsoever within Classes A, B, E and F of Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.
 - The reason given for the condition is: In the interests of the amenities of the area and to protect the openness of the Green Belt.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of single storey new detached garage and side extension at Arden Croft, Church Lane, Maxstoke B46 2QN in accordance with application Ref: PAP/2021/0406, dated 29 June 2021, without compliance with condition 5 previously imposed on planning permission Ref: Ref PAP/2016/0148, dated 25 April 2016, but subject to the conditions in the attached schedule. Condition 5 is varied and replaced with an amended version.

Background and Main Issues

2. Planning permission for a proposed extension to the existing dwelling and erection of a detached garage was granted in 2016 (Ref PAP/2016/0148). Condition 5 of that permission prevents certain permitted development rights being exercised without planning permission being granted.
3. The application subject of this appeal seeks to remove this condition to enable full permitted development rights to be reinstated. The Council's refusal reason and appeal statement explain that the condition remains necessary to avoid alterations that could unacceptably harm the openness of the Green Belt, the character of the existing house and have a harmful visual effect on the surrounding area. Consequently, planning permission would be required for any future alterations to the dwelling that would otherwise have been permissible

under Classes A, B, E and F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

4. Therefore, the main issues are whether the condition is reasonable or necessary in the interests of a) the openness of the Green Belt; b) and the character and appearance of the site and surrounding area.

Reasons

Green Belt Openness

5. Policy LP3 of the North Warwickshire Local Plan (September 2021) (Local Plan) identifies that extensions in the Green Belt will be considered disproportionate development depending on the particular merits of each case, using quantitative and qualitative assessment criteria (criterion b.). In addition, it confirms that removal of permitted development rights will be considered where the development is found to have reached the maximum scale that would preserve the openness of the Green Belt, or where other matters such as visual impact are relevant (criterion d.)
6. Paragraph 54 of 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 for doing so. The Planning Practice Guidance (PPG) also advises that conditions of this nature may not pass the test of reasonableness or necessity, and the scope of such conditions needs to be precisely defined with reference to the GPDO.
7. Openness is an essential characteristic of the Green Belt that has both spatial and visual aspects. Notwithstanding that there is a single storey dwelling on the adjacent plot, the appeal site has the appearance of a standalone dwelling, slightly separated from others in Maxstoke by intervening fields. It is set back from, and elevated above Church Lane which slopes down towards Maxstoke Village Hall. It occupies a prominent position when viewed from Church Lane on approach from Packington Lane, as well as from the public right of way adjacent the village hall. Its garden is bound by a wooden post and rail fence allowing open views into the site. Therefore, the openness of the Green Belt is clearly perceptible around the house and in the locality.
8. In this context, further extensions (Class A), roof alterations (Class B), or buildings etc incidental to the enjoyment of the house (Class E) to the full extent possible under relevant permitted development rights, have the potential to be harmful to both the visual and spatial elements of the openness of the Green Belt. In that regard, it is reasonable and necessary for the condition to restrict permitted development rights in relation to Class A, B and E of the Order, to enable the Council to consider any further such proposals.
9. In contrast, I am not persuaded that there is sufficiently clear justification for a restriction on the provision or replacement of areas of hard surfacing for purposes incidental to the enjoyment of the dwelling (Class F). In the particular circumstances of this case, the effect of such alterations to hardstanding as could be undertaken under this permitted development right would preserve the openness of the Green Belt.
10. Accordingly, the removal of reference to Class F from the condition would comply with Policy LP3 of the Local Plan, paragraph 54 of the Framework and the approach in the PPG.

Character and Appearance

11. The appeal house is an attractively proportioned two storey dwelling. Its front facing and side facing gables, together with chimneys that project above the existing roof line are defining positive features of the character of the building. That character is enhanced by its position within the plot and is perceptible from the surrounding area. The approved plans for the 2016 permission show how the various existing extensions, some of which have already been removed, would be replaced by a consolidated design, more closely related to the original building.
12. Given the site's prominence and its positive contribution to the character of the surrounding area, it is appropriate to prevent permitted development rights under Class A, B and E here. Without that restriction, such development could readily conflict with provisions in Policy LP30 of the Local Plan, which requires that developments respect the character and appearance of the surrounding area. However, the effect of exercising permitted development rights in respect of hard surfacing would be sufficiently limited that it would not unacceptably harm the character and appearance of the surrounding area. Such development within Class F could be carried out without conflict with Policy LP30.
13. I therefore conclude that the subject condition is reasonable and necessary in the interests of preserving the character and appearance of the surrounding area, insofar as it relates to Classes A, B and E of the GPDO. As alterations under Class F would not harm character and appearance it is not reasonable and necessary for that condition to include reference to Class F.

Other Matters

14. I note the appeal decisions referenced by the appellant at Betteridges Barn (APP/Q4625/A/12/2170281) and Westbrook (APP/J3720/W/18/3217169). However, in contrast with this appeal site, both appeal sites appear much more closely related to other buildings in their locality. Moreover, in the circumstances of those cases, neither Inspector found that exercising the permitted development rights that had been restricted would result in material harm to the openness of the Green Belt. Whereas, in the context of this site I have found that works under all but one of the permitted development rights would harm Green Belt openness. Therefore, those decisions do not alter my reasoning.
15. I note also the Council's decision to grant planning permission at Yew Tree House (Ref PAP/2021/0259) without imposing a restriction on permitted development rights. Whilst this is on the same road as the appeal site, that house is nevertheless much less prominent in the locality and has a closer relationship with other built development in Maxstoke. Consequently, the circumstances of that site are sufficiently different to justify a different decision here.

Conditions and Conclusion

16. For the reasons given above, I conclude that the appeal should partly succeed. Condition No 5 is only reasonable and necessary in order to prevent extensions, roof alterations and erection of outbuildings. This is in the interests of protecting the openness of the Green Belt, and the character and

appearance of the site and surrounding area. However, it is not reasonable and necessary for that condition to prevent provision of hard surfaces incidental to the enjoyment of the dwellinghouse. Therefore, I will replace the disputed condition with one that excludes reference to Class F, such that permitted development rights for provision of hard surfaces can be exercised.

17. The Council has advised that, in addition to condition 5, only conditions 2, 4 and 6 of the 2016 permission are now required. For the sake of clarity, I have amended the wording of these conditions as necessary, without changing their meaning. Condition 1 is required in the interests of certainty. Condition 2 is required to protect the character and appearance of the surrounding area. Finally, condition 4 is required for certainty over the authorised use of the garages and in the interests of character and appearance.

Rachel Hall

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the plans numbered 5284/01e and 5284/02b, received by the Local Planning Authority on 11 March 2016.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall comprise red facing brickwork and plain roofing tiles, of a colour, size, shape and texture to match the host dwelling.
- 3) Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), no development comprising enlargement or other alteration to the dwelling, alteration to its roof, and erection of any outbuilding, under Classes A, B and E respectively, shall be carried out, other than those expressly authorised by this permission.
- 4) The garages hereby permitted shall not be used for any purpose other than for purposes incidental to the enjoyment of the dwelling known as Arden Croft, and shall not be sold off, sub-let or used as a separate unit of accommodation.