
Appeal Decision

Site visit made on 12 April 2022 by G Sibley MPLAN MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/P0240/D/21/3285677

Kingsway Cottage, Kingsway, Stanbridge LU7 9HZ

- 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 M Smiddy against the decision of Central Bedfordshire Council.
- The application Ref CB/21/03619/VOC, dated 2 August 2021, was refused by notice dated 18 October 2021.
- The application sought planning permission for two storey side extension, new driveway and parking area and demolition of existing garage without complying with a condition attached to planning permission Ref CB/21/00932/FULL, dated 14 July 2021.
- The condition in dispute is No 6 which states that: Notwithstanding the provisions of Part 1, Class A and Class AA of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwelling hereby permitted shall be carried out without the grant of further specific planning permission from the Local Planning Authority.
- The reason given for the condition is: To control the external appearance of the dwelling in the interests of the openness of the Green Belt. (Policy H13 SBLPR, Section 13 NPPF).

Decision

1. The appeal is allowed and planning permission is granted for two storey side extension, new driveway and parking area and demolition of existing garage at Kingsway Cottage, Kingsway, Stanbridge LU7 9HZ in accordance with application Ref CB/21/03619/VOC dated 2 August 2021, without compliance with condition number 6 previously imposed on planning permission Ref CB/21/00932/FULL dated 14 July 2021 and subject to the conditions set out in Schedule 1 of this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary, having regard to local and national policy.

Reasons for the Recommendation

4. Paragraph 54 of the National Planning Policy Framework (Framework) states that planning conditions should not be used to restrict national permitted development (PD) 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 or changes of use may not pass the test of reasonableness or necessity.
5. Schedule 2, Part 1 of the GPDO sets out the permitted development rights for development within the curtilage of a dwellinghouse, with the rights either qualified or removed for development within specific Classes on certain land, but this does not include Green Belts. Accordingly, the fact that a dwelling is in the Green Belt is not, in and of itself, a clear justification for removing PD rights.
6. Any future additional extensions together with the permitted extension could extend the original dwellinghouse beyond the 60% guiding principle set out in Section 7 of the Central Bedfordshire Design Guide (adopted 2014). However, there is no provision in Policy SP4 of the Central Bedfordshire Local Plan (2021) (LP) or the Design Guide to remove PD rights for Green Belt properties in any circumstances, even where extensions already exceed the guideline. I also note that a larger extension approved in 2020, which appears to be extant and capable of implementation, did not have an equivalent condition despite slightly exceeding that percentage. That permission is a realistic fallback position to which I afford significant weight.
7. There is also no substantive evidence before me to show what could still be built as PD given the scale of the permitted extension, or that such development would harm the openness of the Green Belt. Nor has the Council sought to remove PD rights for outbuildings or other forms of development outside Classes A and AA of Part 1, despite concerns being raised about the potential for a replacement garage to be built in the future and the impact of development on trees. Moreover, the Council would still have control over future planning applications to extend the property.
8. Taking all of these points together, I find that there is no clear justification to remove these PD rights. Therefore, based on the evidence before me and mindful of paragraph 54 of the Framework and the advice in the PPG, I find the condition to be neither reasonable nor necessary to make the development acceptable, even in the context of the site's location within the Green Belt.

Conditions

9. The guidance in the PPG makes it 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 effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties. Where the conditions have been redrafted, they have been done so in the interest of clarity.
10. Further to the statutory commencement condition it is necessary in the interest of certainty that the proposal is carried out in accordance with the approved

plans. A condition regarding materials is also necessary in the interest of the character and appearance of the dwelling and the area. A condition requiring the outbuilding to be demolished is necessary and reasonable in the interest of protecting the openness of the Green Belt.

11. The Council's reason for condition 3 indicates that the trees are in a Conservation Area, but I have no evidence to support that. Nevertheless, they make a positive visual contribution to the area, and if they were damaged during site clearance, demolition or construction of the development this would harm the character and appearance of the area. Therefore, it is necessary to ensure that appropriate protection is in place before development commences. The appellant has agreed a pre-commencement condition in this respect.

Conclusion and Recommendation

12. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall allow the appeal.

L McKay

INSPECTOR

Schedule 1

- 1) The development hereby permitted shall begin not later than three years from 14 July 2021.
- 2) All external works, other than the proposed feather edge boarding, hereby permitted shall be carried out in materials to match as closely as possible in colour, type and texture, those stated on the application form.
- 3) No site clearance, preparatory work or development shall commence on site until a Tree Survey, Tree Constraints Plan and Arboricultural Impact Assessment, and any identified mitigation methods confirmed by the support of a Tree Protection Plan and an Arboricultural Method Statement prepared in accordance with British Standard BS 5837: Trees in relation to design demolition and construction – Recommendations (or in an equivalent British Standard if replace), have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 4) No above ground level works shall commence until full details of the materials and finish to be used for the external cladding of the first-storey aspect of the proposal hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) Prior to the occupation of the development hereby approved, the outbuilding on drawing No 08 Rev B must be demolished.
- 6) The development hereby permitted shall be carried out in accordance with the details shown on the following approved plans: Site Location Plan No 03; Existing and Proposed Dwelling Plans and Elevations No 08 Rev B; and Proposed Site Plan No 9 Rev B.