



Appeal Decision

Site visit made on 10 May 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2022

Appeal Ref: APP/P2365/W/21/3289427

Annbol Cottage, Holmeswood Road, Rufford L40 1TX

- 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 Dave Singleton against the decision of West Lancashire Borough Council.
 - The application Ref 2021/0980/FUL, dated 10 August 2021, was approved on 15 November 2021 and planning permission was granted subject to conditions.
 - The development permitted is described as an 'application for rear extension (retrospective)'.
 - The condition in dispute is No 2 which states that:
The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) Schedule 2, Parts 1 A - F and 2 A - B, or any amendments made to that Order, shall not apply:
 - (i) *no buildings (including green houses, swimming pools, garages or carports shall be erected within the curtilage of the dwelling unless on application to the Local Planning Authority, planning permission for such development has been granted.*
 - The reason given for the condition is: *The character and location of the property are such that the Local Planning Authority wish to exercise control over future development in order to protect the openness of the Green Belt and to comply with the provisions of Policy GN1(b) in the West Lancashire Local Plan 2012-2027 Development Plan Document and National Planning Policy Framework - Protecting Green Belt Land.*
-

Decision

1. The appeal is allowed and the planning permission Ref 2021/0980/FUL for an 'application for rear extension (retrospective)' at Annbol Cottage, Holmeswood Road, Rufford L40 1TX granted on 15 November 2021 by West Lancashire Borough Council, is varied by deleting condition 2 and substituting for it the following condition:
 2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development shall be carried out under Class E of Schedule 2, Part 1.

Preliminary Matters

2. The appellant applied to remove condition number 2 on the planning permission LPA Ref: 2019/1052/FUL. The Council granted planning permission (LPA Ref: 2021/0980/FUL) but imposed an amended condition which removed permitted development rights but not to the extent of the original permission. It is this condition which the appellant seeks to remove. Both main parties

understand that the subject condition, no. 2, removes permitted development rights for the erection of buildings within the curtilage of the dwelling only. However, the condition refers to the provisions of Schedule 2, Parts 1 A - F and 2 A - B. As such, on my reading, the subject condition has the effect of removing a wider range of permitted development rights, but I note the Council's intention was for the condition to only remove permitted development rights for curtilage buildings. I have determined the appeal on this basis.

Main Issue

3. The main issue is whether condition 2 is reasonable or necessary in the interests of preserving the openness of the Green Belt.

Reasons

4. The appeal property is a semi-detached building which is situated in a generous plot that contains a large car parking area. It is positioned on a road which contains small groups of buildings set amongst fields and areas of woodland.
5. The Council has set out their concerns that, being within the Green Belt, the removal of the subject condition would result in a spread of development on the appeal site. The full details of the approved extension to the appeal dwelling have not been provided, but reference has been made to a resulting volume increase of around 130% from the original dwelling. The appellant has not disputed this figure or that the appeal dwelling has been significantly extended. Further development the Council say, would harm the openness of the Green Belt.
6. The appellant has stated there is no justification for any of the permitted development rights to be removed. Reference has been made by the appellant to another case where it was said that there are no circumstances where the removal of permitted development rights is justified. I do not have any details of this case, but Paragraph 54 of the National Planning Policy Framework (Framework) sets out that national permitted development rights can be restricted using planning conditions provided there is a clear justification for doing so. I was able to see the large size of the plot at the time of my visit and given the potential for further additions, like the sizable outbuildings erected previously, I consider it reasonable and necessary for certain restrictions, thereby enabling the Council to consider such further proposals in Green Belt terms.
7. The Council in their evidence have accepted that the condition originally imposed on LPA Ref: 2019/1052/FUL was not proportionate as it prevented alterations that did not involve enlargement. Furthermore, they have stated that given the extent of previous extensions, generally further significant extensions would require planning permission and it is not therefore necessary to remove these rights. Given there is no difference between the main parties on these matters, there is no reason for me to take a different position. There is however a clear justification for the provision of buildings within the curtilage of the house to be controlled, as Class E allows for a range of buildings within the curtilage that could introduce further substantial development on the appeal site.
8. I therefore conclude that the subject condition is reasonable and necessary in the interests of preserving the openness of the Green Belt. However, for the

reasons set out above, it currently removes a wide range of permitted development rights and I consider it necessary for the condition to limit such rights to Class E only. As such, the removal of the condition in its entirety would not accord with Policy GN1 of the West Lancashire Local Plan Development Plan Document or the relevant parts of Section 13 of the Framework insofar as they seek to ensure the openness of the Green Belt is not harmed.

Other Matters

9. I have taken into account all other matters raised, including reference to uses that are operating on the appeal site, but none of these would lead me to a different outcome in relation to the main issue.

Condition and Conclusion

10. For the reasons set out, the appeal is allowed but only insofar as omitting the subject permitted development condition and replacing it with another condition that limits the erection of buildings within the curtilage of the dwelling. Aside from this change, for the sake of clarity, conciseness and enforceability, I have amended the wording of condition 2 as appropriate.

F Rafiq

INSPECTOR