



Appeal Decisions

Site visit made on 24 May 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2022

Appeal A Ref: APP/R3705/W/21/3289113

Corley Rise , Old House Lane, Corley CV7 8BS

- 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 J Sheehan against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2021/0458, dated 24 July 2021, was refused by notice dated 30 September 2021.
 - The application sought planning permission for removal of condition no's 3 & 4 of planning permission PAP/2014/0473 relating to occupancy solely for holiday purposes and the keeping of a register of visitors staying in the accommodation without complying with a condition attached to planning permission Ref PAP/2016/0725, dated 10 October 2017.
 - The condition in dispute is No 2 which states that: Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015, or as may be subsequently amended, no development under classes A, B or E of that Part shall commence on site unless details are first submitted to and approved in writing by the Local Planning Authority.
 - The reason given for the condition is: In order to protect the visual amenities of the area and protect the appearance of the building.
-

Appeal B Ref: APP/R3705/W/21/3289119

Corley Rise , Old House Lane, Corley CV7 8BS

- 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 J Sheehan against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2021/0457, dated 24 July 2021, was refused by notice dated 30 September 2021.
 - The application sought planning permission for single storey extension without complying with a condition attached to planning permission Ref PAP/2018/0539, dated 16 November 2018.
 - The condition in dispute is No 4 which states that: No development whatsoever within Classes A, B, C, D, E and F of Part 1, and Classes A and B of Part 2, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details first having been submitted to and approved in writing by the Local Planning Authority, in writing.
 - The reason given for the condition is: In the interests of the amenities of the area.
-

Decision

1. Both appeals are dismissed.

Main Issue

2. The main issue is whether the condition is necessary and reasonable having regard to local and national policies relating to proposals affecting the Green Belt.

Reasons

3. The appeal site comprises a modest detached single storey dwelling set within a defined large plot. The dwelling is elevated from the adjacent highway and is bound by residential dwellings to the south and east, and highways to its north and west. Tall mature hedgerows run around the boundary of the site. The garden to the property is largely located to the east and north of the host dwelling and remains grassed over with no buildings or means of enclosure, giving it an open appearance.
4. The host building has an extensive planning history. The dwelling was originally granted consent as a garage for the adjacent dwelling to the south. Further to its construction consent was granted to use the building as a holiday let and then as a self-contained dwelling.
5. Paragraph 54 of the Framework states planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Expanding on this, the Planning Practice Guidance (PPG) advises conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), so that it is clear exactly which rights have been limited or withdrawn.
6. The GPDO sets out the Permitted Development (PD) rights for development within the curtilage of a dwellinghouse. These rights apply generally to all dwellinghouses, with some exceptions. Given that land within the Green Belt was omitted from these exceptions, land within the Green Belt is regarded as no different in terms of the application of PD rights as land outside of it.
7. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
8. The reason for refusal in both cases are clear in that the Council seeks control in assessing any future effects on the Green Belt. A detached house on a large plot could otherwise feasibly undertake a significant amount of development without the need for planning permission. The appeal site's location within the Green Belt, does not, in itself, represent an exceptional circumstance to warrant removal of PD rights. I have considered the particular characteristics of the dwelling and its surroundings.

9. The dwelling sits on a large plot but is modest in scale. It is not a conventional new build structure but a conversion of an existing outbuilding with a small bungalow appearance. Consequently, it would be highly sensitive to change from further, what could be quite substantial, additions and outbuildings and the provision of hard standings and means of enclosure. The presence of boundary vegetation offers some screening, but glimpses of the site are available from the adjacent highway and via the associated access. Notwithstanding its limited visibility from the public realm, the potential future development could noticeably and significantly reduce the openness of the Green Belt in spatial terms given the scale of the building and the size of its associated curtilage.
10. The appellant has drawn my attention to various appeal decisions relating to removal of PD rights. While there may have been good reasons to amend PD rights in those cases, here I find that the circumstances are incomparable in relation to site characteristics and the reasons for the conditions. In any event I have determined this appeal on its own merits.
11. Accordingly, the removal of the conditions to restrict PD rights would not comply with Policy LP3 of the North Warwickshire Local Plan (2021) which seeks to protect the Green Belt from inappropriate and thus harmful development.

Conclusion

12. For the reasons I have given, the conditions are reasonable and necessary in that they allow the Council to assess whether any future additions to the appeal building and site would be disproportionate and/or harmful to the openness of the Green Belt and thereby avoid inappropriate development in the Green Belt. I therefore dismiss both appeals.

Tamsin Law

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/R3705/W/21/3289113	Mr John Sheehan
Appeal B	APP/R3705/W/21/3289119	Mr John Sheehan