



Appeal Decision

Site visit made on 11 July 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24th August 2022

Appeal Ref: APP/V4305/W/22/3295258

**Sunnyside Cottage, Greensbridge Lane, Tarbock Green, Prescot,
Merseyside L35 1QD**

- 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 Mrs Sheryl Curran against the decision of Knowsley Council.
- The application Ref 21/00944/FUL, dated 10 November 2021, was approved on 16 February 2022 and planning permission was granted subject to conditions.
- The development permitted is the erection of single storey side and rear extension, change of use of land to garden curtilage and erection of single storey outbuilding.
- The conditions in dispute are Nos. 4 and 5, which state that:
 - 4) No part of the development hereby permitted shall be brought into use until an area of hardstanding in addition to that already existing within the property has been laid out in accordance with details which have previously been submitted to and approved by the Local Planning Authority. The hardstanding(s) shall be laid out such that a total of there in-curtilage parking space, each measuring 5 metres by 2.5 metres, are provided. The agreed area(s) shall be retained as such at all times that the proposed development is in use.*
 - 5) 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 garages or carports shall be erected within the curtilage of the dwellings (ii) no buildings, gates, walls, fences or other structures shall be erected within the curtilage of the dwellings*
- The reasons given for the conditions are:
 - 4) To ensure that adequate off-street parking is available in accordance with Policy H8 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.*
 - 5) To protect the residential and visual amenities of the area, safeguard the character of the Green Belt and to comply with the National Planning Policy Framework; Policies CS2, CS5 and CS19 of the Knowsley Local Plan Core Strategy, adopted January 2016 and saved Policy G7 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.*

Decision

1. The appeal is allowed and the planning permission Ref 21/00944/FUL for the erection of single storey side and rear extension, change of use of land to garden curtilage and erection of single storey outbuilding at Sunnyside Cottage, Greensbridge Lane, Tarbock Green, Prescot, Merseyside L35 1QD granted on 16 February 2022 by Knowsley Council is varied by deleting conditions 4 and 5 and substituting for them the following condition:

- 4) No part of the development hereby permitted shall be brought into use until an area of hardstanding in addition to that already existing within the property has been laid out in accordance with details which have previously been submitted to and approved by the Local Planning Authority. The hardstanding(s) shall be laid out such that a total of three in-curtilage parking spaces, each measuring 5 metres by 2.5 metres, are provided. The agreed area(s) shall be retained as such at all times that the proposed development is in use.

Main Issues

2. The main issues are whether the disputed conditions are reasonable and necessary in the interests of highway safety and to protect the openness of the Green Belt.

Reasons

Highway Safety

3. The appeal site comprises a four bedroom semi-detached dwelling with an area of land to the side for which a change of use to garden curtilage has been granted by permission 21/00944/FUL. This permission also allowed the erection of a single storey side and rear extension and single storey outbuilding at the site, which have yet to be constructed. There is an area of hardstanding in the side garden connected to Greensbridge Lane by a driveway, albeit that there is no dropped kerb in this location.
4. By virtue of permission 21/00944/FUL the appeal property will become a five bedroom dwelling. The Knowsley Householder Development Supplementary Planning Document June 2016 (the SPD) recommends that dwellings outside town centres with four or more bedrooms have three parking spaces. However, following construction of the proposal there will be insufficient space in the main driveway for three cars and no parking spaces or proposal for widening the main driveway are shown on the plans. Based on my observations of the road network, such spaces should be provided within the site as on street parking could give rise to collision risks given the busy, narrow nature of Greensbridge Lane.
5. Accordingly, the requirement to submit details on three parking spaces at the site, and to provide these spaces before bringing the development into use, is reasonable and necessary and would meet the tests of the National Planning Policy Framework (Framework). To address this, the Council attached Condition 4 to permission 21/00944/FUL. Having not been worded as a pre-commencement condition this did not require the approval of the appellant. In addition, while there is a typographical error requiring hardstanding for "there" parking spaces instead of "three", based on submitted evidence the intention of the condition remains clear.
6. I acknowledge that the side area of hardstanding at the property has previously been used by vehicles, most notably in connection with the former coal merchant use of the site, and could accommodate multiple vehicles. However, as there is no dropped kerb providing access to this area from the highway and no proposal to address this has been included on the plans, cars would have to mount and cross the footpath to park at this location.

7. This would have the potential for highway safety risks, particularly given the frequency of movements to and from the site likely to be associated with the residential use of a five bedroom dwelling. As such, based on the information before me, this area would not be suitable for the provision of parking spaces in connection with the proposal and it remains that parking would need to be provided at the site prior to bringing the development into use.
8. For the reasons given, I find that a condition to secure adequate parking is both reasonable and necessary. As such, I have amended Condition 4 to correct the typographical error.

Green Belt

9. The appeal site is situated in the Green Belt and Condition No. 5 attached to 21/00944/FUL seeks to restrict permitted development rights at the site for this reason. However, the Framework states that conditions should not be used to restrict permitted development rights unless there is a clear justification to do so, with Planning Practice Guidance (PPG) making it clear 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.
10. I accept that permitted development rights at the site could give rise to further built form within the Green Belt. However, the extent of such development would be limited by the criteria of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order). Although this may still allow for some sizeable development, I have not been provided with evidence that these rights are likely to be used to their maximum. In addition, such development would be further constrained by, and situated within, the site itself.
11. Although sizeable, the site is self-contained and mostly screened from view of the highway and surrounding fields by its boundary treatments. It reads as part of the curtilage to Sunnyside Cottage rather than belonging to the open countryside beyond. Any permitted development at the site would be experienced in this context so as not to appear out of place or to unduly disrupt surrounding openness. This includes any potential boundary treatments constructed under permitted development rights, such that an alternative condition specifically requiring approval of such development in the interests of the Green Belt would not be necessary.
12. I recognise that policies within the Framework seek to protect Green Belt land from inappropriate development. However, there are no restrictions in the Order on development within the curtilage of dwellings located in the Green Belt, whereas such restrictions exist for other land such as National Parks and Conservation Areas through their inclusion as Article 2(3) land. The fact that the site is located within the Green Belt with potential for further development is also common for many other dwellings and curtilages.
13. I do not therefore consider that the position of the appeal site within the Green Belt is in itself an exceptional circumstance in this case, and no other such circumstances have been raised by the Council. Therefore, in the light of the provisions of the Framework and PPG regarding imposition of conditions restricting the future use of permitted development rights, there are no exceptional circumstances to justify the removal of permitted development rights at the appeal site.

14. For the reasons given, Condition No. 5 is neither reasonable nor necessary in the interests of protecting the openness of the Green Belt. It should therefore be deleted.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed and the planning permission varied as set out in the formal decision.

C Rafferty

INSPECTOR