



Appeal Decision

Site visit made on 6 September 2022

by **C Megginson BA(hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st September 2022

Appeal Ref: APP/P2935/W/22/3301068

Shield Law, Bellingham NE48 2HZ

- 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 Sam Everatt against the decision of Northumberland County Council.
 - The application Ref 22/00078/FUL, dated 7 January 2022, was approved on 31 May 2022 and planning permission was granted subject to conditions.
 - The development permitted is the construction of a single storey detached garage.
 - The condition in dispute is No 6 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or the Town and Country Planning (General Permitted Development) (Amendment) (no 2) (England) Order 2008 as applicable (or any Order revoking or re-enacting those Orders), the following works shall not be carried out to the dwellings hereby approved without the prior permission of the Local Planning Authority:*
 - (a) *The construction of any building or enclosure, swimming or other pool for a purpose incidental to the enjoyment of the dwellinghouse.*
 - The reason given for the condition is: *The principle of the construction of outbuildings is supported in only certain circumstances, and in the interest of the rural character of the locality, in accordance with Policies STP1, HOU9 and QOP1 of the Northumberland Local Plan, and the National Planning Policy Framework.*
-

Decision

1. The appeal is allowed and the planning permission Ref 22/00078/FUL for the construction of a single storey detached garage at Shield Law, Bellingham NE48 2HZ granted on 31 May 2022 by Northumberland County Council, is varied, by deleting condition No 6.

Background and Main Issues

2. Planning permission for the construction of a single storey detached garage included a condition removing permitted development rights for the construction of any building or enclosure, swimming or other pool for a purpose incidental to the enjoyment of the dwellinghouse. The Council's statement indicates that the condition is necessary to protect the rural character of the locality. The appellant objects to the condition as they consider that exceptional circumstances have not been demonstrated to justify the condition.
3. Taking the above background into account the main issue is whether the condition is reasonable or necessary in the interests of the character and appearance of the area.

Reasons

4. The Council recognise that the appeal site and wider plot is set back away from the road and benefits from a notable degree of screening by existing trees and scrub

and is not widely visible from public vantage points. The dwellinghouse and its curtilage sits in a prominent position on the hill, however, it is a significant distance from the road and neighbouring properties and is well screened by groups of mature trees and stone walling. This results in a well contained, private site. The neighbouring farm sits opposite to the access road for the appeal site and in addition to the main dwelling includes a number of large outbuildings/sheds and a substation building.

5. I have had regard to the advice within the Planning Practice Guidance that conditions restricting permitted development rights will rarely pass the test of necessity and should only be imposed in exceptional circumstances. The Guidance also advises that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
6. The Council states that they are unable to secure the retention of the existing trees and scrub at the site by a planning condition in order to maintain any future screening which the plot benefits from. In addition, they state that the condition would enable the council to consider the cumulative impact of outbuildings on the character of the property and on the amenity of the surrounding area. I appreciate that the trees screen the appeal site and there are ways in which the Council can secure the protection of such trees should they wish to do so. Nevertheless, even without the trees, the location of the site and the contained nature of the topography of the rear curtilage within the stone walling would provide some screening of further development.
7. The Council state that the principle of the construction of outbuildings is supported in only certain circumstances. However, I have no further evidence before me to demonstrate what these circumstances are. In addition, the need to demonstrate a reasonable requirement for proposed development is not a matter required to be addressed by the National Planning Policy Framework (the Framework) or by the Northumberland Local Plan (2022) (the Local Plan).
8. I am not convinced that exceptional circumstances have been demonstrated in this case. As such, the detached garage, together with permitted development allowances, within the contained curtilage of the dwelling, would not result in harm to the rural character of the area and would comply with Policies STP1, HOU9 and QOP1 of the Local Plan and the Framework which seek, amongst other matters, to ensure that new development provides good design that respects the character and appearance of the landscape and the locality.
9. Accordingly, I find that the disputed condition is not reasonable or necessary in the interests of the character and appearance of the area.

Conclusion

10. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

C Megginson

INSPECTOR