



Appeal Decision

Site visit made on 10 August 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/C2708/W/22/3291879

2 Willow Garth Avenue, Crosshills, Keighley, West Yorkshire BD20 7DY

- 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 Phillip Priestley against the decision of Craven District Council.
- The application Ref 2021/23080/FUL, dated 18 June 2021, was approved on 16 September 2021 and planning permission was granted subject to conditions.
- The development permitted is the change of use of part of adjoining field from agricultural to residential use as a garden.
- The conditions in dispute are Nos. 3 and 4, which state that:
 - 3) *Notwithstanding the submitted details shown on the submitted drawings, and, notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any equivalent Order following the revocation and re-enactment thereof (with or without modification) no walls or fences shall be erected on site. Within the first planting season following this planning permission, a soft landscaped boundary consisting of native species shall be planted on the northern and eastern boundary, maintained at no less than 1m in height and depth, and retained as such thereafter. Any trees, hedges or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees, hedges or shrubs of similar size and species to those originally required to be planted;*
 - 4) *Notwithstanding the provisions of Schedule 2, Part 1, Class A & E of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any equivalent Order following the revocation and re-enactment thereof (with or without modification) no hard surfacing shall be laid on site, nor any building or enclosure, swimming or other pool shall be erected on site.*
- The reasons given for the conditions are:
 - 3) *In order to preserve the character of the open countryside and maintain the integrity of the Green Wedge in accordance with Local Plan Policy ENV1, ENV3 & ENV13 and National Planning Paragraph Framework Paragraphs 124, 126 & 130;*
 - 4) *In order to preserve the character of the open countryside and maintain the integrity of the Green Wedge in accordance with Local Plan Policy ENV1, ENV3 & ENV13 and National Planning Paragraph Framework Paragraphs 124, 126 & 130, and; in order to ensure the scheme is suitable from a flood risk and drainage perspective and comply with Local Plan Policy ENV6 and National Planning Paragraph Framework Paragraphs 159, 167, 168.*

Decision

1. The appeal is allowed in part and the planning permission Ref 2021/23080/FUL for the change of use of part of adjoining field from agricultural to residential use as a garden at 2 Willow Garth Avenue, Crosshills, Keighley, West Yorkshire BD20 7DY granted on 16 September 2021 by Craven District Council is varied by deleting condition 3.

Main Issues

2. The main issues are: whether Conditions 3 and 4 of planning permission 2021/23080/FUL would be reasonable and necessary having regard to the effect of the development on the character and appearance of the surrounding area, including the Green Wedge; and whether Condition 4 of planning permission 2021/23080/FUL is reasonable and necessary having regard to the effect of the development on flood risk.

Reasons

Character and appearance

3. The site comprises a plot of land to the rear of No. 2 Willow Garth Avenue, for which planning permission was granted for residential use. It forms a corner plot where rear gardens along Willow Garth Avenue and Station Road meet, abutting an area of open land designated as a Green Wedge.
4. The approved scheme extends the rear garden of No. 2 Willow Garth Avenue into the Green Wedge. Condition No. 3 of planning permission 2021/23080/FUL seeks to restrict the erection of walls or fences at the site, and to ensure a soft landscaped boundary in the interests of the character and appearance of the surrounding area, including the Green Wedge. For the same reason, condition No. 4 seeks to restrict the development of hard surfacing, buildings, enclosures, swimming or other pools at the site.
5. The Council acknowledges that the appeal site is a modest sized plot, representing a limited part of the Green Wedge. However, it considers that the characteristics of a garden would lead to wider harms. Policy ENV13 of the Craven Local Plan states that development will be resisted within the Green Wedge where it would fail to preserve the separate character and identity of settlements, or would fail to preserve the sense of separation between settlements.
6. Due to its open nature, the section of Green Wedge at the site marks a clear separation between Crosshill and neighbouring settlements. However, it is lined in this location by rear gardens, providing a clear immediate residential character. These are formed of both grass and hardstanding, with a variety of structures therein and a range of boundary treatments separating them from the Green Wedge. While many of these may have been approved under planning policy that predates the Green Wedge designation, or where this was not taken into account, they nevertheless form part of the character and identity of the immediate section of the settlement.
7. Accordingly, the erection of outbuildings, other structures, and solid boundaries at the site, or the presence of hardstanding, would not appear out of place. They would be experienced alongside the varied surrounding rear gardens such that it would not upset the immediate character. While I acknowledge that a soft landscaped boundary would represent a more gradual transition from the open area to the residential use, such a transition is not a defining characteristic of the surrounds. Overall, the immediate character and identity of this part of the settlement would be preserved and remain clearly defined with the addition of such development.
8. Furthermore, the sense of separation from other settlements would remain, even with the erection or installation of such development in this location. This

is due to the modest scale of the site, particularly in the context of the wider Green Wedge, and the corner location, which together would significantly reduce any sense of encroachment into the Green Wedge and towards other settlements.

9. For the reasons given, Conditions 3 and 4 of planning permission 2021/23080/FUL are neither reasonable nor necessary having regard to the effect of the development on the character and appearance of the surrounding area.

Flood Risk

10. Condition No 4 has also been attached to planning permission 2021/23080/FUL to ensure that the scheme is suitable from a flood risk and drainage perspective. The main parties agree that the site is located in Flood Zone 2 such that, in accordance with the National Planning Policy Framework, a site-specific flood risk assessment should be provided.
11. I have had regard to the Flood Risk Assessment submitted by the appellant. However, this states that the approved change of use will result in a grassed area with small shrubs and flowers. It does not assess the implications of hardstanding or built form at the site. Accordingly, even acknowledging the appellant's contention that there has been no flooding for some time, it has not been adequately demonstrated by the Flood Risk Assessment that such development at the site would not be vulnerable to flooding or would not increase the risk of flooding.
12. While reference is made to planning permission at neighbouring sites for hardstanding and built form, I have limited information on the specifics of such schemes. In any event, each scheme is assessed on its own merits and it remains that, in this case, no Flood Risk Assessment assessing the potential implications of hardstanding and built form at the site has been provided.
13. For the reasons given, Condition No. 4 of planning permission 2021/23080/FUL is therefore reasonable and necessary with regards to the effect of the development on flood risk.

Conclusion

14. I have concluded that Condition No. 3 of planning permission 2021/23080/FUL is neither reasonable nor necessary with regards to the effect of the development on the character and appearance of the surrounding area, such that it should be removed. While I have also concluded that Condition No. 4 is neither reasonable or necessary with regards character and appearance, I have found that it remains both reasonable and necessary with regards to the effect of the development on flood risk. Accordingly, Condition No. 4 should not be removed from planning permission 2021/23080/FUL.
15. For the reasons given above, I conclude that the appeal should be allowed in part and the planning permission varied as set out in the formal decision.

C Rafferty

INSPECTOR