



Appeal Decision

Site visit made on 28 June 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref: APP/W4223/W/22/3291324
Royal Oak Inn, Broad Lane, Delph OL3 5TX

- 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 and Mrs Michael Fancy against the decision of Oldham Council.
 - The application Ref FUL/347898/21, dated 15 November 2021, was approved on 19 January 2022 and planning permission was granted subject to conditions.
 - The development permitted is the conversion and change of use of public house with associated living accommodation to single dwellinghouse with garden.
 - The condition in dispute is No 3 which states that:
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A, AA, B, C, D and E of Part 1 of Schedule 2 shall be carried out unless permission is granted by the Local Planning Authority.
 - The reason given for the condition is:
In order to protect the openness of the green belt and the non-designated and designated heritage assets having regard to Policies 22 and 24 of the Oldham Local Plan and Sections 13 and 16 of the National Planning Policy Framework.
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Decision

1. The appeal is allowed and the planning permission Ref FUL/347898/21 for the conversion and change of use of public house with associated living accommodation to single dwellinghouse with garden at Royal Oak Inn, Broad Lane, Delph OL3 5TX granted on 19 January 2022 by Oldham Council, is varied by deleting condition 3.

Background and Main Issues

2. Planning permission was granted at the appeal property for the change of use to a dwellinghouse with three conditions. The appellant seeks to remove condition number 3 which removed a range of permitted development rights.
3. The main issues are whether condition 3 is reasonable or necessary in: (i) the interests of preserving the openness of the Green Belt; (ii) in terms of the proposal's effect on the significance of the nearby listed building and the appeal building, a non-designated heritage asset.

Reasons

Openness

4. The appeal property comprises of a detached building which is situated in a generous plot with a large car parking area to the rear. It is set amongst a small group of buildings that are surrounded by fields.

5. The Council has set out their concerns with reference to Paragraph 149 of the National Planning Policy Framework (Framework) that, being within the Green Belt, the removal of the subject condition could result in disproportionate additions over and above the size of the original building. I recognise that such an assessment refers only to the original building and not the original building as well as permitted development extensions. However, the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) does not seek to limit such rights for properties in the Green Belt as it does for others on Article 2(3) land. Paragraph 54 of the Framework also sets out that national permitted development rights can be restricted using planning conditions but on the provision that there is a clear justification for doing so. The planning permission subject of this scheme would result in the change of use from a business use to a dwellinghouse which would then benefit from permitted development rights, but this in itself is not a justification for removing such rights.
6. Although the Council has explained that the condition does not mean that any further additions or alterations would not be acceptable, but would allow for them to control inappropriate development, there has been no assessment on the Council's part to explain why extensions, buildings or alterations would be harmful to the openness of the Green Belt.
7. I therefore conclude that the disputed condition is not reasonable or necessary in the interests of preserving the openness of the Green Belt. As such, there would be no conflict with Policy 22 of the Oldham Council Joint Core Strategy and Development Management Policies Development Plan Document (Joint DPD) or with guidance in Section 13 of the Framework, which seeks to keep Green Belt land permanently open.

Listed Building and Non-Designated Heritage Asset

8. The appeal property is located close to a Grade II* listed building, Heights Chapel, St Thomas Old Church, which is an imposing building siting in an open, rural setting. Its special interest and significance derives from its historical interest, dating from around 1765 and its architectural interest in terms of the use of stone as well as the detailing and craftsmanship around windows, doors and on its different elevations. The open setting makes an important contribution in being able to appreciate the church and hence contributes to the significance of the listed building.
9. The appeal property itself, although not a listed building and nor featuring on a local list, does date from a similar period to the nearby listed building. There is no heritage statement before me, and there are limited details about the appeal property's significance as a non-designated heritage asset. However, given the age of this building, its significance derives from its traditional form of construction and relationship with the surrounding rural landscape.
10. The Council has stated that permitted development rights would enable a considerably sized outbuilding to be erected, and that there is a need to have special regard to the desirability of preserving the listed asset's architectural or historic interest or setting. Although no specific details of an addition are before me, the GPDO does allow, under Class E, the erection of buildings within the curtilage of a dwellinghouse that are incidental to the enjoyment of it. Such a building would be subject to certain limits and conditions and key amongst these are height restrictions and a limit that such a building within the curtilage

can only have one storey. As such, given the height and prominence of the nearby listed building and the two-storey form of the appeal property, I do not consider that such a building, erected under Class E of the GPDO would detract from the significance of either the listed building or the non-designated heritage asset. These buildings would also continue to be readily appreciated in their rural setting and an outbuilding within the curtilage of the appeal property, would not unduly diminish the contribution these two heritage buildings make to the rural setting.

11. I therefore conclude that the disputed condition is not reasonable or necessary in the interests of preserving or enhancing the significance of these heritage assets. As such, there would be no conflict with Policy 24 of the Joint DPD or Section 16 of the Framework, which seek to conserve and enhance heritage assets and their settings.

Conclusion

12. The condition would meet the other tests set out in the Planning Practice Guidance (PPG), namely being relevant to planning and the development, enforceable and precise. However, for the reasons given above, the disputed condition would not meet the tests of being reasonable or necessary. Therefore, I conclude that the appeal should succeed and I will vary the planning permission by deleting the disputed condition.

F Rafiq

INSPECTOR