



Appeal Decision

Site visit made on 10 January 2023

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/Y3425/W/22/3305738

Blacklake Farm, 85 Hilderstone Road, Meir Heath, Stoke On Trent ST3 7NS

- 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 Mr Mark Dudley against the decision of Stafford Borough Council.
- The application Ref 22/35819/FUL, dated 1 April 2022, was refused by notice dated 18 August 2022.
- The application sought planning permission for the demolition of existing dwelling and outbuildings and erection of replacement dwelling without complying with a condition attached to planning permission Ref 19/30024/FUL, dated 11 April 2019.
- The condition in dispute is No. 2 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any other subsequent equivalent order, no development within the following classes of development shall be carried out without the prior approval of the Local Planning Authority:*
 - Schedule 2, Part 1, Class A - enlargement, improvement or other alteration
 - Schedule 2, Part 1, Class B - additions etc to the roof
 - Schedule 2, Part 1, Class C - any other alterations to the roof
 - Schedule 2, Part 1, Class D - porches
 - Schedule 2, Part 1, Class E - buildings etc incidental to the enjoyment of the dwellinghouse.
 - Schedule 2, Part 1, Class F - hard surfaces incidental to the enjoyment of the dwellinghouse
 - Schedule 2, Part 2, Class A - gates, fences, walls etc.'
- The reason given for the condition is: *'To prevent the construction of inappropriate and unnecessary extensions, outbuildings, and other operational development which would harm the openness of the North Staffordshire Green Belt (Paragraph 145 of the National Planning Policy Framework).'*

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and outbuildings and erection of replacement dwelling at Blacklake Farm, 85 Hilderstone Road, Meir Heath, Stoke on Trent ST3 7NS in accordance with application Ref 22/35819/FUL, dated 1 April 2022, without compliance with condition 2 previously imposed on planning permission Ref 19/30024/FUL, dated 11 April 2019 and subject to the conditions in the schedule at the end of this decision.

Background and Main Issue

2. Planning permission was granted in 2017 for extensions to the original dwelling on the site (Ref: 17/26878/HOU). These were not implemented. Following this,

a further application (Ref:18/28033/FUL) was submitted and permission was granted for the demolition of the original dwelling and outbuildings and erection of a replacement dwelling. Subsequently, a further planning permission was granted to amend the design of the replacement dwelling (Ref:19/30024/FUL). This permission was subject to several conditions, including condition 2, which removes permitted development rights for the enlargement, alteration and improvement of the dwelling and any buildings, hard surfaces, gates, walls or fences within its curtilage. The Council considers this condition to be necessary to protect the openness of the Green Belt.

3. The main issue is therefore whether the condition is reasonable or necessary in the interests of preserving the openness of the Green Belt.

Reasons

4. The appeal site relates to a detached dwelling which sits in a large plot, accessed off Hilderstone Lane. At my site visit, I saw that the replacement dwelling had been completed and was occupied. A substantial area of private outdoor amenity land lies to the rear and includes a pond, with a larger pond lying immediately outside the property boundary, separated by a timber post and rail fence. To the front is a further large area of outdoor space, screened from the main road by a hedge. Other than residential development to the south, a bungalow across the road to the west, and a cricket field to the north, the site lies in a rural setting of open fields and woodland on the edge of Meir Heath, within the Green Belt.
5. I have not been provided with the Council's reports for any of the previous permissions. The officer report for the appeal case sets out that although the replacement dwelling was larger than the original dwelling, the unimplemented planning permission (Ref:2017/ 26878/HOU) for extensions to the original dwelling created a genuine fall-back position which was considered to constitute very special circumstances upon which to allow a materially larger dwelling. However, the Council assert that condition 2 is necessary to restrict any further enlargement of the dwelling or any other buildings within its curtilage in order to preserve the openness of the Green Belt.
6. The National Planning Policy Framework (the Framework) sets out the tests for planning conditions and, at paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Planning Practice Guidance (the PPG) states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity, and that blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
7. Policy SP7 of The Plan for Stafford Borough 2014 (PSB) states that, amongst other things, development within the Green Belt will only be supported where it is consistent with national policies for the control of development. Policy C5.B of the PSB specifically relates to replacement dwellings and this advises that proposals for a replacement dwelling in areas outside a settlement will be supported, provided a number of criteria are met. Criterion f requires the replacement building to be of a similar floor area, volume and massing as the original, whilst respecting the character of the existing site and its

surroundings. Although no PSB policies are referred to in the Council's decision notice, these policies are referred to in the Council's officer report and I find they reflect the approach set out in paragraph 149 of the Framework.

8. The Council indicate that the approved extensions to the original dwelling would have been 25.08sqm larger than the floor area of the replacement dwelling, and I have no substantive reason to question this figure. I have not been provided with any volume calculations regarding the differences between the original dwelling and its replacement, nor any adopted guidelines with regard to limitations on the size of replacement dwellings, although I observed at my site visit that the dwelling now on the site is of significant height.
9. While there has been visible development on the site and wider area historically, the Framework defines the original building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. Consequently, under the provisions of the Framework the replacement dwelling as built should be considered as original, and any future additions would not automatically be disproportionate under the tests at paragraph 149. In any event, the provisions of the Framework would only apply if future development were to require planning permission. For this reason, I am not satisfied that the evidence or planning history of the site given to me provides clear justification to impose a blanket removal of permitted development rights.
10. Condition 2 currently prevents the enlargement, improvement or other alteration of the dwelling, including roof alterations and porches, along with the erection of outbuildings incidental to the enjoyment of the dwellinghouse, creation of hard-surfaces and construction, of gates, fences, walls or other means of enclosure. Such control is too wide ranging and restrictive given what Part 1 permitted development rights now allow.
11. Class A of Part 1 relates to extensions. While there would inevitably be some impact on openness from extensions, the Town and Country Planning (General Permitted Development) Order (the GPDO) does not place a restriction on dwellings within the Green Belt, as it does in other designated areas such as National Parks. The appeal property is one in a cluster of properties on the eastern side of the road. The properties vary in size and scale and display alterations and extensions as well as residential paraphernalia within their gardens and there are various access tracks and boundary treatments. These factors define and limit the degree of openness between the cricket ground to the north and woodland to the south.
12. Extensions permitted under Class A would be attached to the building and would a raising of the height of the dwelling would not be permitted. Furthermore, any significant extensions to the dwelling would still require planning permission. As such, in the context of this site, the effect on the openness of the Green Belt as a consequence of extensions permitted under Class A would be limited.
13. Classes B and C of Part 1 relate to additions and alterations to the roof of a dwellinghouse. Notwithstanding the significant height of the dwelling, extensions or alterations to the roof of the property, which could include the installation of rooflights under Class C, would have little effect on the openness of the Green Belt. Similarly, the erection of a porch under Class D of Part 1 would be a minor addition which would not harm the openness of the Green Belt.

14. Class F relates to hard surfaces and is subject to specific size restrictions. Part 2 Class A relates to means of enclosure and is also subject to size limitations. It is very unlikely that the implementation of these permitted development rights would have a harmful effect on Green Belt openness beyond what is envisaged by the GPDO. I therefore find no compelling justification for removing permitted development rights for these Classes.
15. Based on the evidence before me, and the findings of my site visit, I do not consider that there are circumstances particular to this site to justify a stricter approach to permitted development rights for extensions or alterations to the property than exist on other properties in the Green Belt under Part 1 Classes A, B, C, D or F or Part 2 Class A.
16. Notwithstanding the above, without any control over Part 1 Class E permitted development rights, development could be carried out on up to 50% of the total area of the curtilage, subject to other restrictions. That could result in the erection of substantial outbuildings on the site without the need for planning permission. I saw at the time of my site visit that the property appears to be set within a large plot of land and an outbuilding was already present at the rear of the dwelling. A timber post and rail fence demarcates the plot from open land and a large pond to the rear. As such, given the potential for sizable outbuildings within this space, which would conflict with the fundamental aim of keeping land permanently open, there is a clear justification for development under Class E to be controlled.
17. Accordingly, I consider that a revised condition restricting development under Class E of Part 1 of the GPDO remains reasonable and necessary to preserve the openness of the Green Belt and thereby enable the Council to consider such further proposals in Green Belt terms. As such, the removal of the condition in its entirety would not accord with Policy SP7 of the PSB or the relevant parts of Section 13 of the Framework insofar as they seek to ensure the openness of the Green Belt is preserved.

Conditions and Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed and grant a new planning permission but only insofar as omitting the subject permitted development condition and replacing it with another condition that limits the erection of buildings within the curtilage of the dwelling, under Class E of Part 1 of the GPDO.
19. The guidance in the PPG makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Conditions relating to details of materials, landscaping, provision of paddock, parking and construction are not needed since the development has already been carried out. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

A Veevers

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) This permission relates to the originally submitted details and specification and to the following drawings, except where indicated otherwise by a condition attached to this consent, in which case the condition shall take precedence:
 - Location Plan 2 (At a scale 1:500) Drawing No. 2d
 - Block Plan 3 (At a scale 1:250) Drawing No. 3c
 - Proposed Elevations (At a scale 1:100) Drawing No. 5b
 - Proposed Floor Plans (At a scale 1:50) Drawing No. 4b
 - Proposed Gates (At a scale 1:10) Drawing No. 5
 - Boundary Plan (At a scale 1:250) Drawing No. 7a
 - Visibility Splay Plan (At a scale 1:1250) Drawing No. 8
- 2) Notwithstanding 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), no development shall be carried out under Class E of Schedule 2, Part 1.
- 3) Notwithstanding any description/details in the application documents, the extent of the defined residential curtilage of the replacement dwelling is shown outlined in green on drawing SBC1.
- 4) Notwithstanding any description/details in the application documents, the two (southeast) side-facing, first floor windows serving bedroom 1 as shown on drawings no. 4b & 5b shall be obscure glazed and non-opening up to 1.7m in height above floor level and shall thereafter be retained as such.
- 5) The vehicle access visibility splays under application 18/28694/DCON shall be kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.
- 6) The access drive rear of the public highway shall be retained hereafter in a surfaced of bound and porous material for a minimum distance of 5m back from the site boundary.
- 7) Any gates shall be located a minimum of 5m rear of the carriageway boundary and shall open away from the highway.
- 8) All works shall be carried out in complete accordance with the recommendations of the Ecological Appraisal (reference RSE_316_01-V3) and Working Method Statement (reference RSE_316_WMS_V2) by Ramm Sanderson.
- 9) No external means of illumination, including security lights, shall be installed on the development hereby permitted without the prior written consent of the Local Planning Authority.

END