



Appeal Decision

Site visit made on 2 February 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/P1805/W/22/3302280

21 Dodford Road, Bournheath, Bromsgrove B61 9JP

- 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 & Mrs Gary & Tina Hughes against the decision of Bromsgrove District Council.
 - The application Ref 22/00213/FUL, dated 14 February 2022, was approved on 6 June 2022 and planning permission was granted subject to conditions.
 - The development permitted is a proposed two-storey rear house extension.
 - The condition in dispute is No 4 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no development included within Schedule 2, Part 1, Class A, AA, B or D shall be carried out without express planning permission first being obtained from the Local Planning Authority.*
 - The reason given for the condition is: *To protect the openness of the Green Belt and to preserve the residential amenity of adjoining occupiers.*
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Decision

1. The appeal is allowed and the planning permission Ref 22/00213/FUL for a proposed two-storey rear house extension at 21 Dodford Road, Bournheath, Bromsgrove B61 9JP granted on 6 June 2022 by Bromsgrove District Council, is varied by deleting condition 4.

Background and Main Issues

2. Planning permission (Ref 22/00213/FUL) for a two-storey rear extension was granted subject to condition 4 which prevents certain permitted development rights being exercised without planning permission being granted. The application subject of this appeal seeks to remove this condition to enable full permitted development rights to be reinstated.
3. The Council considers the condition is necessary to preserve the openness of the Green Belt, protect the character and appearance of the existing dwelling and surrounding area, and protect the living conditions of neighbouring occupants at 23 Dodford Road (No 23). Consequently, planning permission would be required for any future alterations to the dwelling that would otherwise have been permissible under Classes A, AA, B and D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). This covers enlargement, improvement or alteration of the house (Class A), upwards extension (Class AA), addition or alteration to its roof (Class B), and erection of a porch (Class D).

4. Therefore, the main issues are whether the condition is reasonable or necessary in the interests of:
- the openness of the Green Belt;
 - the character and appearance of the appeal building and the surrounding area; and
 - the living conditions of the neighbouring occupants of No 23.

Reasons

Green Belt

5. No 21 is a modest house set within a generously sized plot on a residential road (the Road). The house is positioned to one side of the plot. Consequently there is a notable sense of openness through the centre of the site, between the house and the boundary with the neighbouring house at No 17. The appeal house is positioned on slightly higher ground than the Road, which itself slopes up away from Fairfield Road. However the prominence of the house in the street scene is limited by its position set back from the Road and behind a mature boundary hedge.
6. In the GPDO, permitted development rights in the Green Belt have not been withdrawn. The National Planning Policy Framework (Framework) states that openness is an essential characteristic of the Green Belt. Also, that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Furthermore, the Planning Practice Guidance advises that such conditions may not pass the test of reasonableness or necessity.
7. The permitted development rights removed by condition 4 would, in general terms, permit further modest extensions to the rear of the house and the side that is furthest from the Road. It would allow for an upwards extension, the height of which could be no more than 7 metres from the highest part of the existing roof. It would allow for alterations to the roof which might provide for a modest loft conversion. In addition, it would allow for erection of a porch on the front elevation subject to restrictions on its size as specified in the GPDO.
8. Such alterations under Class A, AA, B and D would likely result in an increase in dwelling size exceeding the limits established in Policy BDP4 (c) of the Bromsgrove District Plan 2011-2030 (January 2017) (Local Plan). However, even if these rights were fully exercised, none of those elements would be likely to encroach on the space between the front of the dwelling and the boundary with No 17, to any significant degree. Therefore the notable sense of openness at the front of the house would be retained.
9. Furthermore, a prior approval application would be required before an upwards extension could proceed under Class AA. Although this would not directly address its effect on Green Belt openness, the Council would be required to consider its impact on amenity of adjoining premises, as well as the effect of its design and architectural features on external appearance. Therefore a degree of control over the nature of any future upwards extension pursued through this route would remain.

10. Accordingly, whilst removing the restriction on permitted development rights could result in a degree of conflict with the provisions of Policy BDP4 (c) of the Local Plan, it appears reasonably likely that a notable sense of openness in front of the appeal house would nevertheless be retained. Therefore, with respect to its effect on the openness of the Green Belt, I conclude that there is not clear justification for the removal of permitted development rights under Classes A, AA, B and D of the GPDO in this instance.

Character and Appearance

11. The Council considers the appeal building to be a non-designated heritage asset. In that regard, reference is made to its Neo Georgian style which is said to often be attributed with a post war assertion of national image and identity. However, very limited evidence has been provided to establish whether or not the appeal building has a sufficient degree of heritage significance to justify it being a non-designated heritage asset. Nevertheless, the appeal building is a period property with pleasing double fronted design and comprised of smooth red brick. It is therefore of some aesthetic value.
12. As noted above, the house is positioned to one side of the plot. This provides a welcome gap in the built form between No 21 and No 17, contrasting with some other plots along the Road where houses are much closer to one another. For example, No 17 is comparatively much closer to No 15a. There is considerable variation in house design and scale, plot size and building line along the Road. This is emphasised by variations in topography. This variety is a defining positive feature of the character and appearance of the area.
13. Given the conditions and restrictions that would apply to permitted development brought forward under Classes A, B and D of the GPDO, further extension of the property, including to its roof and the addition of a porch, would not unacceptably harm its pleasing double fronted design, the sense of space at the front of the house, or the quality of its materials. Also noted in my reasoning above is that an upwards extension under Class AA of the GPDO would require an application for prior approval. This would address matters of external appearance, including in relation to its principal elevation and the side elevation fronting the Road. Accordingly, even were I to accept that the building merits consideration as a non-designated heritage asset, exercising those permitted development rights would not lead to unacceptable harm to its heritage significance. No substantive evidence is before me to indicate otherwise.
14. Furthermore, in the context of its ample plot size and the varied pattern of development in the surrounding area, works under Classes A, AA, B and D would not unacceptably harm to the character and appearance of the surrounding area. Accordingly, removal of the condition would not conflict with the requirements of Policy BDP19 of the Local Plan relating to good design. Similarly, it would not conflict with Policy BDP20 of the Local Plan which seeks to maintain and enhance the significance of non-designated heritage assets and their setting. I also find no conflict with Policy BDP1 of the Local Plan which requires that decision making has regard to matters including visual amenity and heritage significance. In respect of this main issue, it would also be in general conformity with the High Quality Design SPD (June 2019) (the SPD), which includes principles to support delivery of high quality developments.

15. Therefore, the removal of permitted development rights under Class A, AA, B and D of the GPDO is not clearly justified with respect to its effect on the character and appearance of the appeal building and surrounding area.

Living Conditions

16. The appeal building is positioned relatively close to the boundary with the adjacent house at No 23. Permitted development rights under Class A of the GPDO could bring the built form on the appeal site closer to that boundary. However, due to No 21 backing on to that boundary, limitations within the GPDO would prevent a two storey rear extension being within 7m, and a single storey rear extension being within 2m of that boundary. Moreover, the Council acknowledge that the desired 21m separation distance set out in the SPD would not be achievable as the existing distance between No 21 and No 23 is already in breach of that provision.
17. Furthermore, No 23 is positioned on higher ground than the appeal site and a boundary hedge separating the two gardens provides a reasonable degree of screening even in winter months. Although No 23 has windows that face on to the appeal site, the difference in levels and intervening vegetation would serve to limit the potential for direct overlooking of habitable rooms in No 23. It would also limit the impact of any extension of the appeal site on the outlook from No 23, including roof extensions under Class B of the GPDO. In any event, given the surrounding pattern of development, a reasonable degree of overlooking between adjacent houses is not an uncommon feature here.
18. In addition, given the difference in site levels and the required set back, an upwards extension of the appeal building would not be so detrimental as to unacceptably harm the living conditions of No 23 with respect to privacy or outlook. In any event that would be a matter for consideration through the prior approval process.
19. Therefore, the removal of condition 4 would not conflict with the requirement in Policy BDP1 of the Local Plan relating to the impact of developments on residential amenity. Accordingly, although the SPD separation distance could not be achieved, in the particular circumstances of this case the removal of permitted development rights under Class A, AA, B and D of the GPDO is not clearly justified with respect to its effect on the living conditions of the occupants of No 23.

Other Matters

20. I note the planning history which includes approvals for certificates of lawfulness for a proposed use or development¹. Those sought to clarify the nature of the permitted development rights that could be implemented on this site. I have found that implementation of the above permitted development rights would not cause unacceptable harm in the circumstances of this site. Therefore, whilst the certificates of lawfulness may indicate the appellants' intent to undertake these permitted development rights, this does not alter my reasoning.

¹ 22/00212/CPL and 21/01586/CPL

Conclusion

21. For the above reasons I conclude that the disputed condition is not reasonable or necessary in the interests of the openness of the Green Belt, the character and appearance of the appeal building and the surrounding area, and the living conditions of neighbouring occupants of No 23.
22. I therefore allow the appeal and vary the permission by deleting the disputed condition.

Rachel Hall

INSPECTOR