



Appeal Decision

Site visit made on 22 March 2023

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal Ref: APP/M1520/W/21/3283305

Argyle, Great Burches Road, Benfleet, SS7 3NG

- 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 Steve Austin against the decision of Castle Point Borough Council.
 - The application Ref 21/0724/REM, dated 16 July 2021, was refused by notice dated 13 September 2021.
 - The application sought planning permission for a “three bedroomed bungalow at Argyle, Burches Road, Benfleet” without complying with a condition attached to planning permission Ref CPT/1593/88, dated 31 July 1989.
 - The condition in dispute is No 2 which states that: No development of the type specified in Classes A to E inclusive, of Part 1 of Schedule 2 of the Town and Country Planning General Development Order 1988, shall be carried out without the prior written permission of the local planning authority.
 - The reason given for the condition is: In the interests of protecting the very rural character of the area and exercising control over future proposals in the Green Belt.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue for the appeal is whether the condition is reasonable and necessary having regard to the effect that development undertaken under permitted development rights would have on the character of the Green Belt in this location.

Reasons

3. Argyle is a modest bungalow located on a very large plot within the Metropolitan Green Belt to the north of Thundersley. The countryside around the site is mostly open shrubland with individual dwellings of varying sizes occupying large plots. The plan accompanying this appeal shows the plot associated with Argyle to extend some distance from the footprint of the bungalow, extending to a distance of over 50 metres along the frontage and well in excess of 100 metres to the rear. This is currently laid to grass and due to the size of the plot and its agricultural appearance it retains an open and largely undeveloped character.
4. The appeal property was granted permission in 1989 subject to a number of conditions. Within his decision the Inspector granting the appeal noted that the proposal, which was a replacement dwelling, was of a size which took into

account both the building it replaced and the permitted development rights which would have been open to the homeowner had they chosen to extend the original property. He also concluded that the rebuilding of the property was only acceptable subject to restrictions on future development and that control over some types of permitted development was necessary in order to protect the very rural character of the area. I note that not all categories of permitted development were removed, solely those which would enable the enlargement of the dwelling or the provision of built structures within the curtilage.

5. The property is modest in size. If fully implemented and taken cumulatively, extensions to the property under permitted development rights could result in very substantial enlargement of the appeal property. Furthermore, permitted development rights would also enable the erection of large and prominent structures within the substantial area of land to the rear of the dwelling. The large and open plot would render any changes on the site likely to be clearly visible. Having regard to the openness and visibility of the site, the size of the dwelling and the size of the plot, I am of the view that future expansion could erode the rural character of the site and so could harm the character and openness of the Green Belt in this location.
6. The GDPO does not distinguish between development within or outside Green Belt. Both the Framework and Planning Practice Guidance (PPG) are clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The PPG also states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.
7. The appeal property was granted permission in advance of the Framework or the PPG. The previous Inspector was clear that the appeal property was itself larger than the building it replaced and only considered acceptable if restrictions were put in place to allow the Council to assess the suitability of any future enlargement of the property. As such, I consider that the previous Inspector was reasonable in imposing the condition, as it is clear from his reasoning that without imposing a condition the alternative would have been to refuse permission.
8. I note the appellant's view that the GDPO would only allow limited extension to the property. In some cases, this may indeed be the case. However, the effect of the condition is not to preclude all further development on the site, but instead, to allow the Local Authority the opportunity to assess the impacts of such development before it takes place and to resist development in instances where it would cause harm.

Conclusion

9. Having regard to the nature of the site, the potential harm identified above, and the circumstances which led to the original approval, I consider there to be clear justification for the imposed condition in this case and for it to be reasonable and necessary.

10. Accordingly, having regard to all other matters raised, I dismiss the appeal.

Anne Jordan

INSPECTOR