



Appeal Decisions

Site visit made on 9 August 2023

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th September 2023

Appeal A Ref: APP/Y3940/W/22/3312561

Drove Cottage, High Post Road, Netton, Wiltshire SP4 6AP

- 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 C & K Norton against the decision of Wiltshire Council.
 - The application Ref PL/2022/06741, dated 30 August 2022, was approved on 11 November 2022 and planning permission was granted subject to conditions.
 - The development permitted is described as 'Removal of Conditions 5 & 6 of 16/03468/FUL (Proposed construction of new detached dwelling and relocation of existing access to serve new dwelling. Creation of new access to serve existing dwelling)'.
 - The conditions in dispute are No 4 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 or amending that Order with or without modification), no garages, sheds, greenhouses and other ancillary domestic outbuildings shall be erected anywhere on the site on the approved plans."* and No 5 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 or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted."*
 - The reason given for condition No 4 is: *"To safeguard the character and appearance of the area."* and the reason given for No 5 is: *"In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements."*
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Appeal B Ref: APP/Y3940/W/22/3312563

Drove Cottage, High Post Road, Netton, Wiltshire SP4 6AP

- 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 C & K Norton against the decision of Wiltshire Council.
 - The application Ref PL/2022/06742, dated 30 August 2022, was approved on 11 November 2022 and planning permission was granted subject to conditions.
 - The development permitted is described as 'Removal of Conditions 4 and 5 of 20/11294/FUL (Change of use of agricultural land to domestic 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 or amending that Order with or without modification), no garages, sheds, greenhouses, pergolas and other ancillary domestic outbuildings shall be erected anywhere on the site on the approved plans."*
 - The reason given for the condition is: *To safeguard the character and appearance of the area.*
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Decision

1. Appeal A is allowed and the planning permission Ref PL/2022/06741 for the removal of Conditions 5 and 6 of 16/03468/FUL (Proposed construction of new detached dwelling and relocation of existing access to serve new dwelling. Creation of new access to serve existing dwelling) at Drove Cottage, High Post Road, Netton, Wiltshire SP4 6AP granted by Wiltshire Council, is varied by deleting conditions 4 and 5.

Appeal B is allowed and the planning permission Ref PL/2022/06742 for the removal of Conditions 4 and 5 of 20/11294/FUL (Change of use of agricultural land to domestic garden) at Drove Cottage, High Post Road, Netton, Wiltshire SP4 6AP granted by Wiltshire Council, is varied by deleting condition 3.

Background and Main Issue

2. There are two appeals on this site. They differ primarily in the part of the site they relate to. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two together, except where otherwise indicated.
3. Planning permissions were granted for the erection of a dwelling Ref. 16/03468/FUL) and for the change of use of land to garden (Ref. 20/11294/FUL) at the appeal site. The first included conditions removing permitted development rights for additions to, extensions or enlargements to the new dwelling and the erection of ancillary domestic outbuildings including garages, sheds, greenhouses. The second permission also included the latter condition relating to ancillary domestic outbuildings and a condition to restrict the erection of garden structures. Subsequent applications refs PL/2022/06741 and PL/2022/06742 sought to remove the conditions. The Council permitted both of those applications; however, reimposed the conditions in dispute in their original form in the case of Appeal A, and in the case of Appeal B, reimposed a consolidated amended condition. The permissions thus granted are, in fact and in law, an alternative permission. The appellant has appealed against the later permissions, referencing them on the appeal form. Consequently, I have dealt with the appeals as being made directly against a condition imposed on a planning permission.
4. In relation to Appeal A, the Council considers the condition restricting additions, extensions and enlargements is necessary in the interest of the amenity of the area. The officer's report indicates that this also includes the effect of the development on the living conditions of the occupiers of the adjoining properties. The Council considers in both cases the conditions relating to outbuildings are necessary to safeguard the character and appearance of the area. The proposal before me is to remove all 3 of the disputed conditions, which the appellants consider not to be necessary.
5. The main issues are therefore whether the conditions are reasonable or necessary having regard to the character and appearance of the area and in the case of Appeal A, the living conditions of occupiers of neighbouring properties.

Reasons

Character and appearance

6. The appeal property, Drove Cottage, is a recently constructed detached dwelling. It is located on land which previously formed part of the side garden of the adjoining property, Oak View. Drove Cottage sits within a row of dwellings which front High Post Road, the neighbouring properties vary in terms of age and architectural style and have gardens to the rear. The appeal site is within a Special Landscape Area, with open countryside beyond the rear garden boundary and on the opposite side of the road to the front of the site.
7. The National Planning Policy Framework (the Framework) sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance (PPG) also advises 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. Therefore, the starting point is that permitted development rights should remain in place, unless clear justification for their removal is advanced which is specific to the site. I will consider the need for the conditions against this context.
8. The original planning permission for the erection of a dwelling at the appeal site (Ref. 16/03468/FUL) showed the dwelling sat on a modest plot, set back a short distance from the front boundary. It was located close to the side boundary between it and Oak View and the rear boundary of the site. Subsequently, permission was granted by the Council for the change of use of the adjoining land to increase the size of the garden serving the appeal property. This permission has been implemented and the dwelling now occupies a generous plot with space between it and the adjoining dwellings to either side and a rear garden similar in size and length to the surrounding residential properties.
9. The appeal submissions indicate that condition 4 of planning permission 16/03468/FUL requires the provision of off-road parking spaces as shown on the approved plans. This would safeguard the parking spaces, even if development that did not require planning permission were to take place.
10. Consequently, the enlargement of the property, through the erection of extensions or outbuildings allowed by permitted development rights would not give rise to an overly large development in relation to the plot. Moreover, a useable amount of garden space, including space to park vehicles, would be retained overall.
11. The appeal site is within the Special Landscape Area, where, in accordance with saved Policy C6 of the Salisbury District Local Plan 2011 (SDLP) proposals for development in the countryside will be considered having particular regard to the high quality of the landscape. Where proposals which would not have an adverse effect on the quality of the landscape are acceptable, they will be subject to the specific criteria, including that the siting and scale of development is sympathetic with the landscape.
12. The open countryside surrounding the hamlet of Netton, in which the appeal site is located, includes parcels of agricultural land bound by native field hedges

and trees. There are also small areas of woodland and scattered residential development and agricultural buildings.

13. Drove Cottage, together with its garden space is located between the existing neighbouring properties. In the case of Appeal A, the site comprises a modest area, located to the front of the wider plot. As such the scope for outbuildings or extensions would be limited. In addition, due to the site constraints, they would be likely to be well related to the existing dwelling on the site and would not encroach into the surrounding open countryside. Moreover, the rectangular shape of the plot, and site layout, including parking provision to the side, is such that, even with permitted development additions, space would be maintained between it and the adjoining dwellings.
14. The depth of the rear garden area is consistent with that of the adjoining properties. The size and layout of the garden is not dissimilar to others in the vicinity, several of which benefit from various outbuildings. The land to the rear of Drove Cottage is flanked by a mature boundary hedge to the side boundary with 1 Brownway Cottages (No 1) and post and wire fencing to the rear and opposite side and therefore benefits from a degree of enclosure. It is therefore visually well contained in the wider rural landscape.
15. I note the condition to restrict permitted development on the garden land was imposed to protect the character of the rural landscape and specifically the Council's concern that the erection of a number of smaller buildings or a large building would erode the green, rural character of the locality. However, given the size of the site and its contained nature any such ancillary outbuildings, including garages, sheds, greenhouses and pergolas would be viewed within the context of the adjoining residential properties, rather than perceived as part of the open countryside beyond. Consequently, they would be unlikely to have a significant effect on the wider rural landscape or detract from the quality of the Special Landscape Area.
16. For the above reasons, it has not been shown that there is clear justification for the removal of permitted development rights as set out in the Framework and the PPG. I therefore conclude that the conditions are not reasonable or necessary in the interests of protecting the character and appearance of the area. As such, removal of the conditions would not be contrary to Core Policy 51 of the Wiltshire Core Strategy adopted January 2015 (WCS) in so far as it requires development to protect, conserve and where possible enhance landscape character and not have a harmful impact upon landscape character and Core Policy 57 of the WCS which requires a high standard of design and development to be complementary to the locality. It would also not conflict with the aims of saved Policy C6 of the SDLP.

Living conditions (Appeal A only)

17. The dwelling, which is sited forward of No 1, is set in from the shared boundary between the properties. It is also set back from the side elevation of Oak View. The removal of condition 5 would allow the erection of permitted development extensions to the property. However, it has not been demonstrated that any of the additions would cause tangible harm in terms of the living conditions of occupiers of neighbouring properties.
18. In light of the above, the dwelling, together with permitted development extensions, would comply with Core Policy 57 of the WCS in so far as it seeks a

high standard of design and requires new development to have regard to the impact on the amenities of existing occupants.

19. I therefore conclude that the disputed condition is not reasonable or necessary, having regard to the living conditions of the occupiers of neighbouring properties.

Other Matters

20. I note the Council's suggestion that the removal of permitted development rights would not preclude further development at the site but rather that permission would be required to be sought. Nevertheless, this would not justify the imposition of the conditions, which for the reasons set out above, would not be reasonable or necessary.
21. Whether or not the development that has taken place is in accordance with the approved plans is a matter to be resolved by the parties outside of the appeal process.

Conclusion

22. For the reasons given above, I conclude that the appeals should be allowed, and the permissions varied by deletion of the disputed conditions.

E Worley

INSPECTOR