



Appeal Decision

Site visit made on 11 January 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/X0415/D/23/3330553

The Pheasant, Village Road, Ballinger, Buckinghamshire HP16 9LF

- 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 Wright against the decision of Buckinghamshire Council (Chiltern Area).
 - The application Ref PL/23/1787/VRC, dated 1 June 2023, was refused by notice dated 27 July 2023.
 - The application sought planning permission for use of The Pheasant Inn Public House as a single dwellinghouse without complying with a condition attached to planning permission Appeal Ref APP/X0415/C/17/3172653, dated 26 February 2018.
 - The condition in dispute is No1 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 with or without modification), no development falling within classes A, B and E of Part 1 of Schedule 2 to the said Order shall be erected, constructed or placed within the application site.
 - The reason given for the condition is: *'...in order to preserve the openness of the green belt.'*
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Decision

1. The appeal is allowed and planning permission ref APP/X0415/C/17/3172653 for the use of The Pheasant Inn Public House as a single dwelling house, granted 26 February 2018, is varied by deleting condition 1.

Preliminary Matters and Main Issue

2. On 26 February 2018 an appeal was allowed and an enforcement notice quashed and planning permission was granted for the use of the Pheasant Inn Public House as a single dwellinghouse¹. There was one condition imposed on that planning permission, referred to in full in the banner heading above, which removed permitted development rights for development within classes A, B and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO).
3. On 1 June 2023 an application was made to vary that condition to allow those permitted development rights to be reinstated. The application form states that if it cannot be removed, it is requested that the condition be changed to allow class E garden buildings. The Council refused that application on 27 July 2023

¹ Appeal ref APP/X0415/C/17/3172653

and it is that refusal which is the subject of this appeal. Accordingly, this appeal decision considers only the disputed condition.

4. The main issue is the effect that removing the condition would have on the openness of the Green Belt.

Reasons

5. The appeal site lies among other residential properties which together form a cluster of buildings which are otherwise surrounded by predominantly open countryside. Many of the buildings are detached and set back from the road to varying degrees. Several of the gaps between the buildings have been infilled by extensions and outbuildings, which limits the degree of openness around the houses. The Council describe that the circumstances of the appeal site are largely unchanged since the 2018 appeal decision and I have no strong reason to believe otherwise.
6. The appeal decision, which followed an inquiry, explains only briefly why the condition was imposed, referring to the need to preserve the openness of the Green Belt. Reference to the Green Belt is also limited in the rest of the appeal decision as this was not a matter in dispute. The decision states that the Council accepted that the re-use of the building was not inappropriate and would not, subject to conditions, affect the openness of the Green Belt. There is not, however, further details with this appeal of the evidence which was before the Inspector at that time, which led to the conclusion that the condition met the necessary tests set out in the Planning Practice Guidance (PPG). Neither is there evidence to support that the Inspector had concerns for the overdevelopment of the site.
7. The current National Planning Policy Framework (the Framework) is clear at paragraph 54 that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In addition, the PPG states that such conditions may not pass the test of reasonableness or necessity. It adds that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
8. While there would inevitably be some impact on openness from extensions and outbuildings, the GPDO does not place a restriction on dwellings in the Green Belt, as it does in other designated areas such as Areas of Outstanding Natural Beauty. Given the circumstances of the site and its surroundings, together with the presumption against such a condition in national policy and guidance, I am not satisfied that there are circumstances particular to this site to justify a stricter approach to permitted development rights than exist on other properties in the Green Belt.
9. Accordingly I find the condition is no longer reasonable or necessary in the interests of the openness of the Green Belt.

Other Matters

10. The Council's decision notice refers to Policy GB2 of the Chiltern Local Plan 1997, including alterations of 2001 and consolidated 2007 and 2011. That policy refers to development which is inappropriate in the Green Belt and has little relevance to the main issue under this appeal. There is not evidence of

conflict with any other development plan policy which would arise from the removal of condition 1. Neither do I find conflict with the Green Belt objectives of the Framework insofar as the matter of permitted development rights is concerned.

Conditions

11. The original planning permission did not have any other conditions, other than the disputed condition. No additional conditions have been suggested and neither do I find any to be necessary.

Conclusion

12. The appeal is allowed and planning permission is granted without the disputed condition.

C Shearing

INSPECTOR