



Appeal Decision

Site visit made on 23 January 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/P0240/W/23/3328545

Builders Yard, Higher Rads End, Eversholt MK17 9ED

- 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 F Newberry against the decision of Central Bedfordshire Council.
 - The application Ref 23/00357/FULL, dated 31 January 2023, was approved on 27 June 2023 and planning permission was granted subject to conditions.
 - The development permitted is proposed conversion of offices (Use Class E(g)(i)) to a single dwelling-house (Use Class C3) including alterations to windows and doors.
 - The conditions in dispute are Nos 12 and 13 which states:
Condition 12: Notwithstanding the provisions of Part 1, Classes A, AA, B and C of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, including roof extensions and alterations to the roof, to the buildings hereby permitted shall be carried out without the grant of further specific planning permission from the Local Planning Authority.
Condition 13: Notwithstanding the provisions of Part 1 Class E of Schedule 2 to the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no buildings or other structures shall be erected or constructed within the curtilage of the property without the grant of further specific planning permission from the Local Planning Authority.
 - The reasons given for the conditions are:
Condition 12: In the interest of safeguarding the character of the area and openness of the Green Belt (Section 12 and 13, NPPF).
Condition 13: Reason: In the interest of safeguarding the character of the area and openness of the Green Belt (Section 12 and 13, NPPF).
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Decision

1. The appeal is allowed and planning permission is granted for conversion of offices (Use Class E(g)(i)) to a single dwelling-house (Use Class C3) including alterations to windows and doors at Builders Yard, Higher Rads End, Eversholt MK17 9ED in accordance with the application Ref 23/00357/FULL, dated 31 January 2023 without compliance with condition Nos 12 and 13 previously imposed on planning permission Ref 23/00357/FUL dated 31 January 2023 and subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. In my banner heading above, I have used the Council's description of development as this more accurately describes the proposal.
3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Background and Main Issue

4. The Council has granted planning permission 23/00357/FUL for the conversion of offices to residential dwelling, which is in the Green Belt. The permission included condition No 12 that restricts the exercise of Class A, AA, B and C¹ permitted development (PD) rights² and Condition No 13 restricts the exercise of Class E³ PD rights at the appeal site. The justification given by the Council for these conditions is to ensure the character of the area and openness of the Green Belt is retained, in accordance with the Framework. The appellant objects to the conditions and states that the removal of such PD rights is not necessary or reasonable. The appellant therefore seeks to have these two conditions removed and so restore Class A, AA, B, C and E PD rights.
5. Taking the above into account, the main issue is whether Condition Nos 12 and 13 are reasonable and necessary having regard to the location of the appeal site in the Green Belt.

Reasons

6. The appeal site lies outside of a designated settlement within the South Bedfordshire Green Belt. The site lies adjacent to a small office development, surrounded by undeveloped open fields which contributes to the semi-rural character of the locality.
7. The Framework seeks to ensure that extensions and alterations to dwellings do not result in disproportionate additions or inappropriate development in the Green Belt. The Framework confirms that new buildings are inappropriate in the Green Belt with a number of exceptions, including the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the 'original building'. Buildings etc. incidental to the enjoyment of a dwellinghouse are not contained within the list of exceptions, although the courts have held that some buildings may be considered as extensions if they are 'normal domestic adjuncts.' Whether a particular building would be inappropriate development in the Green Belt would turn on the particular facts of the case.

¹ Class A – enlargement, improvement or other alteration of a dwellinghouse, Class B – additions etc to the roof of a dwellinghouse, Class C – other alterations to the roof of a dwellinghouse, Class AA – enlargement of a dwellinghouse by construction of additional storeys

² Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)

³ Class E – buildings etc incidental to the enjoyment of a dwellinghouse

8. The GPDO limits the size of enlargements and buildings etc permitted within the curtilage of the dwellings, including dwellings within the Green Belt. I acknowledge that Class A, AA, B, C and E PD rights are normally available to householders in the Green Belt.
9. Given the modest size of the building and plot any development that fell within permitted development tolerances would likely to be modest in size.
10. At my site visit I observed the appeal site to be reasonably well screened in public views by existing boundary features and landscaping. However, limited or not, visual appreciation of development does not mean the absence of spatial harm to the openness of the Green Belt. Any permitted development proposed would increase the size of the resulting dwelling and consequently cause a reduction in the openness of the Green Belt, albeit to a limited extent.
11. The Framework states that planning conditions should not be used to restrict national PD rights unless there is a clear justification to do so. Planning Practice Guidance (PPG)⁴ advises that conditions restricting the future exercise of PD rights, and 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.
12. My attention has been drawn to an appeal decision⁵ relating to a nearby property, where conditions to exercise control over Classes A, AA, B, C and E PD rights have been imposed for similar reasons to the appeal proposal before me. Furthermore, the Council refers to nearby properties which do not benefit from PD rights. However, I have limited information before me and so cannot be certain of the equivalence of the schemes to the appeal before me. In any event, I have determined the appeal on its own merits.
13. I am mindful that condition Nos 12 and 13, as currently worded, would not prevent the appellants (or a future owner) from applying for planning permission for further enlargement, improvement or other alteration of the resulting house. Any larger development would be subject to assessment under planning policy through the submission of a planning application that would allow the Council to consider a proposal on its planning merits. Nevertheless, based on the evidence before me, and having regard to the Framework and the PPG, in this circumstance I am not persuaded that the removal of the specified PD rights is reasonable or necessary.
14. I therefore conclude that condition Nos 12 and 13 are not reasonable or necessary having regard to the location of the appeal site in the Green Belt and the aims of the Framework in this regard and the purpose of including land within it.

Conditions

15. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant, albeit that in some cases I have amended the wording in the interests

⁴ Paragraph: 017 Reference ID: 21a-017-20190723

⁵ APP/P0240/W/21/3273460

of clarity. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

16. Based on the information before me, work has not commenced on site. The PPG states that a grant of planning permission under section 73 of the Act should not extend the time period for implementation. Therefore, I shall vary the standard time condition in order to ensure the commencement of development is three years from the date the original permission was granted.
17. Conditions are necessary for materials, boundary treatments and landscaping to ensure that they would maintain the character and appearance of the area. A condition is necessary to ensure adequate access, vehicle and cycle parking is provided to meet the needs of the future occupiers of the proposed dwelling and in the interests of highway safety. A condition is necessary to ensure provision of refuse storage facilities to protect the character and appearance of the area. Conditions regarding compliance with a Code of Construction is necessary to minimise the impact of construction on the living conditions of the occupiers of neighbouring properties.
18. I have taken into account representations to the inclusion of a condition for electric car charging infrastructure. Whilst I acknowledge that Building Regulations Document S "Infrastructure for the charging of electric vehicles" (February 2022) took effect in June 2022 and deals with the provision Electric Vehicle charging facilities for residential development, including changes of use (Part S2), I have also had regard to the Policy T5 of the Central Bedfordshire Local Plan 2015-2035 (July 2021). This local plan policy seeks to assist in the transition to ultra-low emissions vehicles and requires new residential developments to provide active charging posts, passive provision such as cabling and electricity supply for future demand. I therefore consider it reasonable and necessary to attach a condition to secure such provision.
19. The provision of a fire hydrant is reasonable for fire safety. A condition requiring the provision for surface water drainage is necessary in order to reduce the impact of the development on flooding and pollution. A condition requiring compliance with the approved plans is necessary for clarity.

Conclusion

20. For the reasons given above, I conclude that condition Nos 12 and 13 are not reasonable or necessary having regard to the location of the appeal site in the Green Belt.
21. I therefore conclude that the appeal should succeed, and I will issue a new planning permission without the disputed conditions.

R Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from 27 June 2023.
2. All external works hereby permitted shall be carried out in materials to match as closely as possible in colour, type and texture, those of the existing building.
3. Prior to the development hereby approved being brought into first use, a landscaping scheme to include a scheme for hard and soft landscaping, and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme shall be submitted approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following the first use of the development hereby approved (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced during the next planting season.
4. Prior to first occupation, the access/junction shall be constructed as shown on the approved plan no. 22-130-06B, including the provision of 2.4m x 43.0m visibility splays, clear of all obstruction.
5. The proposed vehicular access and access road shall be surfaced in bituminous or other similar durable material (not loose aggregate) as may be approved in writing by the Local Planning Authority before the premises are occupied. Arrangements shall be made for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge into the highway.
6. Notwithstanding the details shown, any gates provided shall open away from the highway and be set back a distance of at least 8.0 metres from the highway boundary and be free from obstruction to opening to all traffic, including service/delivery vehicles using the site.
7. Before the development is brought into use, the proposed development shall be carried out and completed in all respects in accordance with the access siting and layout illustrated on the approved plan No. 22-130-06B and defined by this permission and, notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995, (or any Order revoking or re-enacting that Order), there shall be no variation without the prior approval in writing of the Local Planning Authority.
8. The development shall not be brought into use until a turning space for 6.5m length service/delivery vehicles has been constructed within the curtilage of the site in a manner to be approved in writing by the Local Planning Authority and thereafter, retained free of obstruction for the purpose of vehicular turning for the perpetuity of the development.
9. The secure and covered parking of cycles on the site as indicated on the approved plan no. 22-130-06B shall be fully implemented before the

development is first occupied or brought into use and thereafter retained for this purpose.

10. Details of a refuse collection point located at the site frontage and outside of the public highway and any visibility splays shall be submitted to and approved by the Local Planning Authority prior to the occupation of any dwelling. The scheme shall be fully implemented prior to occupation of any dwelling and shall be retained thereafter.
11. Prior to first occupation, a scheme shall be submitted for approval in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved scheme before the building is occupied and be thereafter retained, and, notwithstanding the provision of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no variation without the prior approval in writing of the Local Planning Authority.
12. The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Construction Code of Practice for Developers and Contractors'
https://www.centralbedfordshire.gov.uk/info/44/planning/674/codes_of_practice_for_planning.
13. Prior to the construction of vehicular parking areas associated with the approved dwelling, a scheme for the charging of electric and ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall accord with Policy T5 of Central Bedfordshire Local Plan and shall include the following:
 - Details of active charging posts or passive provision such as cabling and electricity supply for each dwelling
 - Timescales / triggers for implementation of the scheme.The development shall be completed in accordance with these approved details including the agreed timescales / triggers.
14. The dwelling shall not be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority for the provision of a fire hydrant at the development. The approved scheme shall be installed prior to occupation and retained in perpetuity.
15. No development shall commence until a detailed surface water drainage scheme, to manage surface water runoff from the development for up to and including the 1 in 30 year event (+40%CC), via existing system (with improvements if required), and a maintenance and management plan for the scheme has been submitted to and approved in writing by the Local Planning Authority. The final detailed design shall be based on the agreed Drainage Strategy (Ref:) and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2018) and shall be implemented and maintained as approved. Maintenance will ensure the system functions as designed for the lifetime of the development. Any variation to the connections and controls indicated on the approved drawing which may be necessary at the time of construction would require the resubmission of

those details to the Local Planning Authority for approval. The discharge rate from the development will be limited to the equivalent 1 in 1 year rate, or an appropriate rate as agreed by the Bedford Group of Internal Drainage Boards.

- 16.No building/dwelling shall be occupied until the developer has formally submitted in writing to the Local Planning Authority a finalised 'Maintenance and Management Plan' for the entire surface water drainage system, inclusive of any adoption arrangements and/or private ownership or responsibilities, and that the approved surface water drainage scheme has been correctly and fully installed as per the final approved details.
- 17.The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 22-130-02, 22-130-01, 22-130-03, 22-130-04, 22-130-05, 22-130-06B, 22-130-07.

*****End of Schedule*****