

Appeal Decision

Site visit made on 9 April 2024

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2024

Appeal Ref: APP/D0121/W/23/3332793

13 Ashford Road, Redhill, North Somerset BS40 5TH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Daniel Downton against the decision of North Somerset Council.
 - The application Ref 23/P/1099/FUL, dated 24 May 2023, was approved on 25 July 2023 and planning permission was granted subject to conditions.
 - The development permitted is 'Demolition of existing laundry/ ancillary use building and the erection of a single storey replacement laundry room extension to existing holiday accommodation. Relocation of boundary fence and change of use of land to sui generis to provide larger residential garden for existing residential caravan'.
 - The condition in dispute is No 6 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order, with or without modification), no caravan, garage, shed or other structure shall be erected within the proposed residential garden hereby permitted.
 - The reason given for the condition is: The Local Planning Authority wish to retain control over additional structures in order to maintain the integrity and appearance of this development and the openness of the Green Belt, and in accordance with policies DM12 and DM32 of the North Somerset Sites and Policies Plan (Part 1) and policies CS6 and CS12 of the North Somerset Core Strategy.
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Decision

1. The appeal is allowed and the planning permission Ref 23/P/1099/FUL for the 'demolition of existing laundry/ ancillary use building and the erection of a single storey replacement laundry room extension to existing holiday accommodation. Relocation of boundary fence and change of use of land to sui generis to provide larger residential garden for existing residential caravan', at 13 Ashford Road, Redhill, North Somerset BS40 5TH, granted on 25 July 2023 by North Somerset Council, is varied by deleting condition 6.

Background and Main Issue

2. Planning permission was granted, with conditions, for the development described above. This appeal is made directly against a condition imposed on this planning permission, with the appellant seeking to delete condition 6 which relates to permitted development rights.

3. The main issue is whether condition 6 satisfies the tests for planning conditions, having particular regard to the openness of the Green Belt and the character of the area.

Reasons

4. Policy DM12 of the North Somerset Council Development Management Policies: Sites and Policies Plan Part 1 (Sites and Policies Plan) states inappropriate development is, by definition, harmful to the Green Belt and will not be approved except in very special circumstances. This reflects Green Belt provisions, set out in the National Planning Policy Framework – December 2023 (the Framework).
5. This Policy also states that *'Proposals for domestic outbuildings and garages within existing residential curtilages are not considered to be inappropriate development and should be of a scale and height subordinate to the original dwelling and should not adversely affect the openness of the Green Belt...'* This is somewhat inconsistent with the provisions of the Framework which state planning authorities should regard the construction of new buildings as inappropriate in the Green Belt.
6. This said, the supporting text of Policy CS6 of the North Somerset Council Core Strategy (Core Strategy), does clarify the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. This accords with Green Belt provisions of the Framework, which goes on to state the essential characteristics of Green Belts are their openness and their permanence.
7. Be this as it may, condition 6 removes permitted development rights, and while these rights can in some circumstances permit sizeable development, these permitted developments rights have not been withdrawn (in total or in part) in the Green Belt in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). Moreover, the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. In addition, the Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity.
8. The appeal site is at the end of a short residential cul-de-sac in a rural setting and bounded on three sides by relatively undeveloped paddocks. The site comprises a detached dwelling in the southeast corner of the plot. This dwelling has a sizeable garden to the side, within which the caravan, subject of this appeal, is located. The wider plot is fringed by single storey buildings which appear to be holiday accommodation or are undergoing building works. With the above features, the property has a distinct semi-rural character.
9. The Council asserts that it is unlikely that planning permission would be granted for the siting of the caravan at this site due to the impact on the openness of the Green Belt. This may be so, but the Council issued a Certificate of Lawfulness stating that no enforcement action could be taken against the siting of the existing caravan for residential use. Moreover, the Council went on to grant the planning permission, subject of this appeal,

which amongst other matters, approves a residential garden for this caravan.

10. The Framework, at paragraphs 154 and 155 outlines development that is 'not inappropriate'. This includes material changes of use of land in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. Mindful of this, the submitted plans in this case show the garden for the residential caravan as 'existing residential curtilage of No 13'. Also, I find nothing before me to indicate that there was restrictions on that curtilage in respect of items of 'domestic paraphernalia'. Moreover, while the approved plans of this planning permission sever part of that 'existing curtilage' to form a dedicated garden for the caravan, it seems to me that the nature and character of this land does not appear to have considerably changed under this recent planning permission; it is still a garden.
11. The Council is seeking to limit structures in this garden to protect, amongst other matters, openness and raises particular concerns about additional caravans on this site. However, the siting of a caravan for residential use would likely require a separate planning permission, which would provide an opportunity to consider the impact on openness, as well as the appearance of the area.
12. The Certificate of Lawfulness, already mentioned, was a split decision and the Council concluded that it was not established that there has been a change of use to a dwellinghouse. If this is so, the caravan's garden is unlikely to benefit from permitted development rights for buildings and structures incidental to the enjoyment of a dwellinghouse. Even if the site did benefit from these rights, these are subject to conditions and limitations, including not exceeding 50 % of the total area of the curtilage and height restrictions of structures.
13. The Council also highlights permitted development rights set out in Parts 4 and 5 of the Order, which relate to temporary buildings and caravan sites. These rights are also subject to restriction, and in respect of temporary buildings these are permitted for relatively short periods only.
14. Also, this newly approved garden is modest in size. This factor will considerably limit the scope for new structures in this space and in turn this will minimise the impact on openness. Furthermore, this limited scope for additional structures would ensure that the semi-rural character of the appeal property will not significantly change. In any event, as already stated these rights have not been withdrawn from the Green Belt and this has been the case following successive amendments of the Order.
15. My attention is drawn to an appeal decision where the Inspector found that it was reasonable and necessary to withdraw permitted development rights at a property in the Green Belt. However, that property comprised an extended, replacement dwelling with a large garden, and it was found that that provided clear justification for removing permitted rights in that case. As already outlined, the caravan's garden is relatively modest. As such the circumstances in this case are distinctly different from that other appeal, and that decision has not altered my findings for this reason.

16. In light of the above, I find no clear justification has been advanced for the removal of these permitted development rights in this case. Condition 6 is therefore unreasonable and unnecessary and does not satisfy the tests, set out in the PPG and the Framework, for planning conditions. Moreover, for the reasons outlined, deleting this condition would not give rise to conflict with Policies DM12 and DM32 of the Sites and Policies Plan and Policies CS6 and CS12 of the Core Strategy. These Policies collectively, amongst other matters, seek to protect the openness and purposes of the Green Belt and require sensitivity to existing local character.

Other Conditions

17. The Council has suggested a modified condition which prevents the erection of caravans, garages, sheds and structures. However as already outlined such structures would likely require planning permission or are covered by rights set out in the Order. In either instance, such a condition would not be necessary for the reasons already outlined.

Conclusion

18. Having regard to the development plan, the Framework and all other material considerations, the appeal is allowed, and the planning permission is varied with the deletion of condition 6.

A J Sutton

INSPECTOR