



Appeal Decision

Site visit made on 25 June 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2024

Appeal Ref: APP/A1910/W/24/3336853

15 Home Farm, Park Road, Tring, Hertfordshire HP23 6QU

- 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 Phil Clark against the decision of Dacorum Borough Council.
 - The application Ref 23/01222/ROC was refused.
 - The application sought planning permission for change of use from agricultural buildings to 11 residential units with alterations to access, without complying with a condition attached to planning permission 4/0195/92.
 - The condition in dispute is No 7 which states that: *"Notwithstanding the provisions of the Town and Country Planning General Permitted Development order 1988 or any amendments thereto, there shall be no extension or addition to the building(s) hereby permitted without the express written permission of the local planning authority."*
 - The reason given for the condition is: *"In order that the local planning authority may retain control over further development in the interests of residential and visual amenity."*
-

Decision

1. The appeal is allowed, and planning permission reference 4/1587/94 is granted for conversion of farm buildings into 8 dwellings and carports at Home Farm, Tring, Hertfordshire HP23 6QU in accordance with the terms of the application, Ref 23/01222/ROC, subject to the following conditions:
 - 1) The vehicle parking and circulation arrangements as provided shall not be used otherwise than for the purposes approved.
 - 2) 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 permitted by virtue of Classes A, C, D and E of Part 1 of Schedule 2 to the Order shall be undertaken.
 - 3) All of the existing external walls, roof trusses and rafters to the existing structures relating to the development hereby permitted shall be retained in their entirety unless prior written consent is obtained from the local planning authority.
2. The appeal is allowed. However, the disputed condition is deleted and substituted for a modified condition. The effect of this is that the permitted development rights continue to be removed from the development. However, the condition is more specific than the original to ensure that it is precise.

Background and Main Issues

3. Planning permission for change of use of the buildings to 11 residential units was approved in May 1992 under reference 4/0195/92. The permission

included a condition removing permitted development rights for extensions and additions to the buildings. The appellant asserts that the removal of permitted development rights within the condition is not reasonable or necessary. The appellant therefore seeks to remove the condition.

4. The Council has refused the application on three reasons. The first of which refer to the above planning permission not being implemented. However, the Council has advised that there are two subsequent planning permissions which were implemented. These are 4/1587/94 and 4/01606/96/FUL. Both of these two later permissions also included conditions removing permitted development rights as follows:
5. Council reference 4/1587/94 included condition 7 which states that *"Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1988 or any amendments thereto, there shall be no extension or addition to the buildings hereby permitted without the express written permission of the local planning authority"*. The reason given for the conditions is: *"In order that the local planning authority may retain control over further development in the interests of residential and visual amenity."*
6. Council reference 4/01606/96/FUL included condition 10 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) (with or without modification) no development falling within the following Classes of the Order shall be carried out without the prior written approval of the local planning authority: Schedule 2 Part 1 Classes A, B, C, D, E, F, G and H."*
7. From the evidence before me the appellant's property, No. 15 Home Farm, falls under the application 4/1587/94. The appellant is only seeking to remove the condition in relation to his own property, not the whole development or that permitted under the other consent. The appellant has also advised that they sought to amend the planning application to refer to the later permission.
8. Nevertheless, I have been made aware of the subsequent consents and I have been provided with the decision notices for these. I have, therefore, considered the appeal before me as an application to remove condition 7 attached to planning permission 4/1587/94, specifically for No. 15 Home Farm.
9. Since the buildings have been changed to residential units the appeal site has been included in the Tring Conservation Area. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides, at section 72(1), that with respect to any buildings or other land, in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.
10. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes". I have, therefore, referred to the Chilterns Area of Outstanding Natural Beauty as the Chilterns National Landscape in my decision.
11. Taking the above into account the main issues are, therefore, whether the condition is reasonable and necessary having regard to:
 - the need to preserve or enhance the character or appearance of the Tring Conservation Area, conserve or enhance the natural beauty of the National

Landscape and the need to further the purpose of conserving or enhancing the natural beauty of the National Landscape; and

- the effect that removing the condition would have on the living conditions of the occupiers of neighbouring properties.

Reasons

Character and appearance

12. The appeal property is one of 16 residential properties created through the conversion of buildings previously known as Woodlands Stables and now known as Home Farm. As detailed above the two planning permissions for the change of use of the buildings both included a condition removing permitted development rights.
13. The appeal site lies within the Tring Conservation Area. It also lies within the Metropolitan Green Belt and the Chilterns National Landscape. The site is, therefore, sensitive to change.
14. An understanding of the importance of the Conservation Area is supported by the Tring Conservation Area Character Appraisal and Management Proposals, March 2019 (the CAMP). The CAMP details the historic development of Tring and the characteristics which are of special architectural or historic interest. The Conservation Area as a whole is large and covers a wide range of buildings and areas. The significance of the Conservation Area is, in part, derived from its mixed character and built form, with short views of interest and character areas, and a strong relationship with Lord Rothschild.
15. The CAMP indicates that the component buildings of Tring Park form a very important part of the history, character and appearance of the CA and possess historic interest through their former function, their connection to Rothschild and Huckvale, and for their design and materials which link them to many other buildings in the town.
16. No.15 is the end unit of one of two blocks of buildings. It forms part of a group with numbers 9 to 14 around a group of gardens. From the evidence before me and my own observations on site the dwellings are the result of conversion of a set of agricultural buildings. This is also the view reached by the Inspector in the appeal at 5 Home Farm¹. I acknowledge that the conversion works were carried out before the site was included in the Conservation Area. However, the buildings, before conversion, were considered to be attractive and of architectural and historic interest.
17. There was some rebuilding work carried out during the conversion, as noted in the officer report for the original planning permission. Moreover, although alterations and additions have been made to the buildings, including inserting several rooflights and additional chimneys, the buildings can still be read as a traditional farm complex which has been sensitively converted. I have no substantive evidence to support the appellant's claim that the buildings were re-built or new build, even taking into account the anecdotal evidence provided.

¹ APP/A1910/D/23/3320173

18. In that regard, although the appellant contests it, I consider that the buildings are of sufficient historic interest and merit, as described in the original planning permission, to be considered as a non-designated heritage asset. The buildings do now have a distinctly domestic appearance. However, there remains visual clues to the former agricultural use and the consistent appearance of the buildings, which is a result of the sensitive conversion works, also contributes positively to their appearance and the character of the area. The appeal property makes a positive contribution to the significance of the Conservation Area.
19. Permitted development rights were removed to ensure that the Council could retain control over any further extensions, additions, or alterations at the property, to ensure that any such development does not adversely affect the character and appearance of the buildings and the area, or the living conditions of the occupiers of neighbouring properties.
20. The removal of permitted development rights does not seek to prevent development. It gives the Council control over the development of the site. The appellant could apply to the Council for approval for any alterations, additions, or extensions they wish to carry out.
21. The Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The PPG does not expressly prevent the removal of permitted development rights but requires such conditions to be precisely defined, by reference to the relevant provisions in the General Permitted Development Order (the Order), so that it is clear exactly which rights have been limited or withdrawn.
22. The condition on 4/1587/94 does refer to the Order which was in force at the time. Albeit not specifically referring to the parts of the Order it is clear that extensions and additions are not permitted. The condition on 4/01606/96/FUL is more precise and specifies the Classes of the Order which are removed (A to H inclusive). The reason for the condition was clear, precise, and justified. It was reasonable and necessary and wholly related to the development approved at the time. The condition, as imposed met the tests referred to in paragraph 56 of the National Planning Policy Framework (the Framework).
23. The PPG also advises that area-wide or 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.²
24. However, the condition, as applied relates to the converted agricultural buildings only. It is not an area-wide or blanket removal of permitted development rights, and it is wholly reasonable for such conditions to be used on conversion schemes to ensure that the buildings continue to be read as a conversion in perpetuity. It is not necessary for such rights to be removed through an Article 4 Direction which are more likely to be applied to remove permitted development rights for certain alterations across the whole of the Conservation Area. Contrary to the appellant's assertion, the removal of permitted development rights is not a temporary measure and can be retained in perpetuity, providing it continues to be reasonable and necessary.

² 017 Reference ID: 21a-017-20190723

25. Without the condition the property owner could alter and extend the property. The Order does restrict permitted development rights relating to development within the curtilage of a dwellinghouse for Classes A to H in National Landscapes and Conservation Areas and this is reflected in the advice contained within the CAMP. However, the Order does allow for some small-scale development within these categories and would not prevent all alterations or extensions.
26. If the permitted development rights were reinstated for No 15 this would likely lead to alterations and additions that may not respect the character or appearance of the existing buildings. Any such alterations or additions would be likely to be conspicuous within the group of buildings, albeit not conspicuous beyond the site. However, this is not the test within the Framework.
27. Although the appellant may undertake sensitive changes the Council would not have any control over whether they were sensitive or not without the condition removing permitted development rights. The condition retains an element of control to ensure that any such alterations or extensions preserve or enhance the character and appearance of the building.
28. Furthermore, the removal of permitted development rights for one of the properties within the group would increase the likelihood of other property owners seeking to remove the condition. This could lead to a mismatch of extensions and alterations onto a group of buildings which currently has a high quality and consistent appearance. Without the Council retaining control, through the removal of permitted development rights, such changes would, consequently, harm the character and appearance of the buildings and subsequently the Conservation Area. Such alterations and additions would not conserve or enhance the natural beauty of the National Landscape or further the purpose of conserving or enhancing the natural beauty of the National Landscape in which the buildings lie.
29. In my judgement the condition remains necessary, reasonable, enforceable, and relevant to planning and the development. The removal of the condition, even if I were to only remove the condition for No 15, would not preserve or enhance the character or appearance of the Conservation Area and would not conserve or enhance the natural beauty of the National Landscape or further the purpose of conserving or enhancing the natural beauty of the National Landscape. The removal of the condition would fail to comply with Policy CS27 of Dacorum's Local Planning Framework Core Strategy 2006-2031 (the CS) which favours the conservation of heritage assets, seeks to protect, conserve, and enhance the integrity, setting and distinctiveness of designated and undesignated heritage assets, and seeks to positively conserve and enhance the appearance and character of conservation areas.
30. For the same reasons, the proposal would not reflect the advice set out in the Framework in regard to conserving and enhancing the historic environment and the desirability of sustaining and enhancing the significance of heritage assets.
31. However, condition 7 on planning permission reference 4/1587/94, as worded, is not precise and I have, therefore, re-worded the condition to ensure that it meets the tests within the PPG to be precisely defined, by reference to the relevant provisions in the General Permitted Development Order (the Order), so that it is clear exactly which rights have been limited or withdrawn.

32. I have taken into consideration the recommended wording from the Council which is less onerous than the condition on the later consent, for the other part of the conversion scheme. The revised wording of the condition does not materially alter the development which was originally approved. Moreover, the revised wording is no more onerous than the condition as originally written. It is, more precise, and allows for greater certainty over what forms of development require planning permission to be applied for.

Living conditions

33. The dwellings created through the conversion of the buildings are grouped closely together. No 15 forms part of a courtyard group around an area which has been subdivided to form small rear gardens.
34. Additions under Class A or buildings within the rear garden under Class E could be carried out if permitted development rights were reinstated and these additions would be likely to adversely affect the living conditions of the occupiers of the immediate neighbouring property due to the close relationship between the two properties. Any additions to the rear of No 15 would be likely to block light to the windows of the neighbouring property and any outbuildings in the rear garden would reduce the openness of the gardens and be oppressive for the users of the adjacent garden.
35. Moreover, as with the first Main Issue, the reinstatement of permitted development rights for one of the properties within the group would increase the likelihood of other property owners seeking to remove the condition. This could lead to additional adverse effects on the occupiers of other properties within the group.
36. For the above reasons, I find that the condition continues to be necessary and reasonable in the interest of protecting the living conditions of the occupiers of neighbouring properties. Consequently, the removal of the condition would fail to comply with Policy CS12 of the CS which, amongst other matters, seeks to ensure that developments avoid visual intrusion, and loss of sunlight and daylight.
37. For the same reasons, the proposed removal of the condition would not comply with the requirements of Appendix 3 of the Dacorum Local Plan 1991-2011 (the LP) which seeks to ensure development avoids cramped layouts, maintains residential character, maintains satisfactory levels of sunlight and daylight, and avoids significant levels of overshadowing.
38. Furthermore, the reinstatement of permitted development rights would likely risk reducing the high standard of amenity for existing and future users required by paragraph 135(f) of the Framework.

Other Matters

39. The appellant has also sought to argue that the continued removal of permitted development rights is an additional cost and administrative burden to the owners of these properties. However, although there would be administrative requirements and costs producing a planning application there is no fee for a planning application for alterations and additions that would otherwise be permitted development. These costs should have been something the appellant was made aware of before purchasing the property.

40. Whether there are other properties in the area that are not subject to such constraints is not determinative in this appeal and I have not been provided with any evidence of similar conversion schemes where the dwellings have retained permitted development rights.
41. I have also not been provided with the full details of the Cheshire appeal referred to by the appellant and I am unable to directly compare that scheme to the scheme before me. In any event, I have determined the appeal before me on its individual merits.
42. The appeal at 5 Home Farm is also materially different to the appeal before me as that scheme sought consent for the insertion of rooflights and a light tunnel. I agree with the Inspector in that decision in that the existing buildings already contain more prominent rooflights and, therefore, that the insertion of additional rooflights would not alter the character of the buildings.

Conditions

43. The guidance in the Planning Practice Guidance 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.
44. The Council has advised that only two conditions, the one subject to this appeal, and the condition requiring the existing external walls, roof trusses and rafters to the existing structures to be retained are required to be re-imposed. However, there are other conditions on the original planning permission that require certain elements of the development to be retained. I have, therefore, imposed all the conditions that I consider remain relevant.
45. The Council suggested alternative wording for the disputed condition and the appellant has had an opportunity to comment on this.

Conclusion

46. The appeal should be allowed. However, the disputed condition is reimposed in a revised form so as to retain the removal of permitted development rights as, for the reasons given above, I find that the condition is reasonable and necessary having regard to the need to preserve or enhance the character or appearance of the Tring Conservation Area, and the need to protect the living conditions of the occupiers of neighbouring properties.

K Townend

INSPECTOR