



Appeal Decision

Site visit made on 24 September 2024

by S Hartley BA (Hons) Dist.TP (Manc), DMS, MRTPI, MRICS

an Inspector appointed by the Secretary of State

Decision date: 30 September 2024

Appeal Ref: APP/A0665/W/24/3345359

Mendips, Liverpool Road, Neston, CH64 7TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission subject to conditions.
 - The appeal is made by Andrea Gavin against the decision of Cheshire West and Chester Council.
 - The application Ref 23/03237/S73 was approved on 7 March 2024 and planning permission was granted subject to a condition.
 - The development permitted is for a single garage extension – removal of condition 4 (permitted development) of planning permission 17/02429/FUL.
 - The condition in dispute is No. 1 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 Schedule 2, Part Classes A, for extensions, and Class E, shall be carried out without the grant of planning permission by the local planning authority'.*
 - The reason given for the conditions is: *'to safeguard the openness and visual amenity of the Green Belt'.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was approved under Ref:17/02429/FUL for the erection of a garage extension to the side of the dwelling. On my site visit I was able to see that it has been built.
3. The planning application was approved subject to several conditions including condition No. 4 which removed Classes A, B, D and E permitted development rights in Part 1 of Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Planning application 23/03237/S73 sought the continuation of the development approved under the 2017 planning permission, but without compliance with condition 4. The appellant was partly successful in terms of the application (i.e. 23/03237/S73) in so far that the local planning authority (LPA) approved the planning application made under section 73 of the Act in so far that classes B and D permitted development rights were removed but not classes A and E. A new planning permission was therefore approved under 23/03237/S73 subject to condition 1. It is the imposition of condition 1 of 23/03237/S73 which is the subject of this appeal and in particular, the removal of permitted development rights under Classes A and E of the GPDO .

The Main Issue

4. The main issue is whether condition No. 1 of planning permission Ref: 23/03237/S73 is reasonable and necessary.

Reasons

5. The National Planning Policy Framework 2023 (the Framework), at paragraph 56, states that planning conditions should be kept to a minimum and only imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. More specifically, paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
6. The appeal site falls within land designated as Green Belt. The reason for imposing condition No. 1 was to safeguard the openness and visual amenity of the Green Belt. I have considered the officer report which led to the garage extension being approved as part of the original planning permission (i.e., 17/02429/FUL). The officer report states *'Mendips has benefitted from numerous extensions in its history; including the construction of a detached garage/stable building to the north (this has consent for conversion to a dwelling). This application proposes a further extension to the dwelling in order to create an attached garage. The property has already been considerably enlarged from its original size, as such this proposal is considered to represent a disproportionate addition over and above the size of the original. Disproportionate additions are considered to be inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances'*.
7. The officer report adds that *'the level of development that could be undertaken at the site under permitted development is considered to be far more harmful to the openness and permanence of the Green Belt than this proposal. Therefore, the Council is minded to approve the proposed extension subject to conditions removing the permitted development rights for the construction of all extensions and outbuildings'*.
8. I acknowledge that the GPDO does not seek to impose specific restrictions in respect of development in the Green Belt whereas it does in respect of other land (i.e. article 2(3) land) such as conservation areas and National Parks. However, that does not mean that there can be no circumstances which justify the removal of national permitted development rights in the Green Belt, particularly where there is clear planning policy justification to do so. In this case, the appellant does not dispute that the *'property has already been considerably enlarged from its original size'*.
9. I consider that in approving the garage extension, the LPA was mindful of the Green Belt policy position. Furthermore, I consider that in the absence of the removal of specified permitted development rights, the extension would amount to a disproportionate addition over and above the size of the original building on the land (i.e. the dwellinghouse). The appellant does not dispute that other permitted development could be undertaken on the land and, in this regard, I find that in approving planning permission for inappropriate development in the Green Belt, the LPA considered that the removal of the specified permitted development rights amounted to the existence of the very

special circumstances needed to justify allowing inappropriate development in the Green Belt.

10. The appellant asserts that any further development, including the erection of Class E outbuildings, would be screened from passers-by owing to the existence of existing trees and vegetation. It cannot be the case that trees and vegetation would endure forever, and, in any case, the reason for the condition is that the approved garage extension amounted to a disproportionate addition in the Green Belt owing to its spatial impact.
11. I note the various appeal decisions appended to the appellant's statement of case. I recognise that some Inspectors have taken the view that the removal of permitted development rights in the Green Belt is not generally necessary or clearly justified. However, while that may often be the case, I have determined this appeal upon the facts and circumstances which led to planning permission being approved for the garage extension and for condition No.4 being imposed. In this case, I find that there was clear planning policy justification for removing the specified permitted development rights. Therefore, I find that condition No. 4 met the tests for conditions as laid out in paragraph 56 of the Framework.
12. I am mindful that the Council has granted a new planning permission for the garage extension under 23/03237/S73. This removes only classes A and E permitted development rights of Part 1 of Schedule 2 of the Order and not classes B and D. I am not certain of the rationale for not also including classes B and D permitted development rights in condition 1 of 23/03237/S73 given the Green Belt assessment in the officer report for Ref: 17/02429/FUL. Indeed, development under Classes B and D permitted development rights could have the potential to further impact on the openness of the Green Belt. Nonetheless, that is the position that now exists in terms of planning permission 23/03237/S73. However, on the evidence that is before me, I find that it is necessary to remove permitted development rights under classes A and E of Part 1 of Schedule 2 of the Order.

Conclusion

13. For the reasons outlined above, I conclude that condition No. 1 of 23/03237/S73 is reasonable and necessary. In this case, there is clear justification for retaining the condition as worded. Therefore, the appeal should be dismissed.

S Hartley

INSPECTOR