

Appeal Decision

Site visit made on 20 August 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2024

Appeal Ref: APP/T3725/W/24/3342008

Land to the North of Bakers Lane, Knowle, Solihull B93 8PT

- 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 & Mrs Sukh Varaich against the decision of Warwick District Council.
 - The application Ref W/24/0009 was approved on 15 March 2024 and planning permission was granted subject to conditions.
 - The development permitted is the Variation of Condition 11 (removal of Permitted Development Rights) of planning permission ref: W/23/1185 (Proposed dwelling in lieu of extant Class Q Prior Approval (ref W/22/0981) and extant stable block (ref W/10/0079)).
 - The condition in dispute is No 11 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall take place which falls within Part 1 of this Order.
 - The reason given for the condition is: The dwelling is justified as a replacement for the extant permission on the site for the proposed barn conversion which is subject to restrictions on future development. It is considered appropriate to restrict Permitted Development Rights to ensure that the proposal remains proportionate to the barn it replaces in the interests of visual amenity and openness of the Green Belt having regard to Policies BE1, BE3 and DS18 of the Warwick District Local Plan 2011-2029.
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Decision

1. The appeal is allowed and the planning permission Ref W/24/0009 for the Variation of Condition 11 (removal of Permitted Development Rights) of planning permission ref: W/23/1185 (Proposed dwelling in lieu of extant Class Q Prior Approval (ref W/22/0981) and extant stable block (ref W/10/0079) at Land to the North of Bakers Lane, Solihull B93 8PT granted on 15 March 2024 by Warwick District Council, is varied by deleting condition 11 and substituting for it the following condition:

1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall take place which falls within Classes A or E of Part 1 to Schedule 2 of this Order.

Background and Main Issue

2. Prior approval was granted for the conversion of an agricultural building to two dwellings in July 2022 under reference W/22/0981. Planning permission was subsequently granted in March and November 2023 for a single dwelling in lieu of the prior approval scheme (W/22/1490 and W/23/1185 respectively). The November 2023 permission was implemented and was subject to a condition (number 11) restricting further works that could be carried out using permitted development.
3. The appellant sought to delete this condition under planning application W/24/0009. A fresh permission was granted by the Council however the condition was only varied insofar as it narrowed the scope of works covered to those falling within Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). These works excluded are the same as those which are precluded under Part 1 of the Order for taking place in relation to Part 3, Class Q conversions of agricultural buildings to dwellinghouses. The approved dwelling is now substantially complete.
4. Therefore, the main issue is whether condition 11 meets the tests set out in the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG), specifically whether it meets the tests of being necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

Reasons

5. The 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. 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 such tests of reasonableness and necessity.
6. The officer report states that the approved development comprises the redevelopment of previously developed land in the Green Belt and was justified based on a fallback position of a prior approval under Class Q permitted development rights to convert the existing building to residential use. Whether the scheme was approved as an exception under Framework paragraph 154 g) or whether it was deemed to constitute very special circumstances is unclear. Nevertheless, it is legitimate in either case to have regard to the objective of preserving the openness of the Green Belt. The principle of a condition removing permitted development rights for development which would harm openness is acceptable.
7. Even so, I am mindful of the effect the works that could be undertaken as permitted development would have on the Green Belt. The effect of the completed dwelling on openness would likely be comparable even if extensions to the permitted dwelling under Classes B, C and D (whether in cumulation or individually) were undertaken. In deciding upon which permitted development rights to remove it is important to consider the effect the works would have on the Green Belt. Additions and alterations to the roof granted deemed permission under Classes B and C, and porches under

Class D are unlikely to have a significantly greater impact on the openness of the Green Belt relative to the approved dwelling, even if they are exercised in combination with one another. The disputed condition was unnecessarily restrictive in this regard and undertaking such works would be acceptable in terms of their effects on the Green Belt.

8. Alterations under Class AA are not applicable to this dwelling due to its date of construction. Furthermore, the fairly minor works to construct hard surfaces, erect chimneys and flues and install microwave antennae, permitted under Classes F, G and H are likely to have nil or negligible impact upon the openness of the Green Belt. There is therefore no necessity for these permitted development rights to be removed.
9. However, potential permitted development operations under Classes A and E are expansive, particularly given the size and arrangement of the site's plot. The Order allows for large extensions and up to 50% of the site's curtilage to be occupied by further development. Although the other conditions and limitations of the Order would potentially control this such that the 50% figure may not be achievable, it could still amount to a substantial quantum of development that could have a detrimental effect on the openness of the Green Belt. Such an extension or outbuilding could also potentially conflict with policy H14 of the Warwick District Local Plan 2029 (adopted 2017) (WLP) which whilst allowing for some extensions to dwellings, does not support disproportionate extensions that would substantially alter the scale, design or character of the original building.
10. Such works could significantly exceed that which was approved in the Class Q conversion. Given that this fallback position was the basis of granting permission for this dwelling, I find it to be of continuing relevance to restrict the construction of any enlargement to the property or structures incidental to the enjoyment of it. Not to do so would undermine the basis of the grant of permission for this new dwelling in the Green Belt in the first instance. This is not to say that further extensions or outbuildings would be unacceptable as a matter of principle; merely that further reference to the Council for express permission would be required. This would allow the Council to apply any relevant Green Belt policy.
11. As such, I conclude that a modified condition, removing reference to Classes B, C, D, F, G, and H of Part 1, but enabling the Council to retain control over development within Classes A and E, is reasonable and necessary in the interests of preserving the openness of the Green Belt. The development, with the condition as I have modified it therefore complies with policies BE1, BE3 and DS18 of the WLP and provisions of the Framework which, in summary, seek good standards of design and the prevention of urban sprawl by keeping land permanently open.

Other Matters

12. In reaching my decision, I have considered the appeals at Springfield Barn¹ and 23 Rhodes Green² which were referenced in the application material. However, both these cases differ insofar as the former, whilst falling within

¹ APP/Z4718/W/21/3268030

² APP/P4225/W/22/3306051

the Green Belt, did not relate to a barn conversion under Class Q of the Order. The appeal scheme here, equally, is no longer a Class Q conversion but as my reasoning has explained above, this appeal dwellings' origins stem from this scenario. The latter referenced appeal did not fall within the Green Belt and therefore there is no direct comparison.

Conditions and Conclusion

13. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition and substituting a new condition which removes permitted development rights on a narrower range of development as set out above.

Nick Bowden

INSPECTOR