



Appeal Decision

Site visit made on 26 November 2024

by **N Bromley BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 December 2024

Appeal Ref: APP/B3438/W/24/3347339

The Beeches, 22 Jasmine Close, Blythe Bridge, Staffordshire ST11 9RS

- 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. Olphin against the decision of Staffordshire Moorlands District Council.
 - The application Ref SMD/2023/0610 was approved on 1 March 2024 and planning permission was granted subject to conditions.
 - The development permitted is conversion of residential annex to dwellinghouse.
 - The condition in dispute is No 4 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 as specified in Part 1 Class(es) A, AA, B, C and E other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the Local Planning Authority."
 - The reasons given for the condition is: "To enable the Local Planning Authority to control the development and so safeguard the character, safety and visual amenities of the area as well as the design of the dwelling and potential neighbour amenity impact."
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Decision

1. The appeal is allowed and the planning permission Ref SMD/2023/0610 for conversion of residential annex to dwellinghouse at The Beeches, 22 Jasmine Close, Blythe Bridge, Staffordshire ST11 9RS granted on 1 March 2024 by Staffordshire Moorlands District Council, is varied by deleting condition 4.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach. Where references are made to paragraph numbers of the Framework, these are references to the most recent version.
3. While the Council's decision notice describes the development as "Variation or removal of condition 4 in relation to SMD/2022/0371" I have used the description of development included on the application form in the banner heading above and my formal decision because this is a more accurate description of the development.

Background

4. Planning permission¹ was originally granted in 2022 (the original permission) for conversion of residential annex to dwellinghouse. The original permission included a number of conditions, including condition 4, which removed a wide range of permitted development rights (PD rights) under Part 1 and Part 20 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015, as amended (the Order).
5. A subsequent application then sought to remove condition 4 of the original permission but the Council permitted this application (recent permission), reimposing condition 4 removing PD rights, with a varied wording. The appellants have appealed against the recent permission, seeking the removal of condition 4 on the grounds that it is not reasonable or necessary.
6. I observed during my site visit that the conversion of the building to a dwellinghouse is now complete.

Main Issue

7. Taking into account the above background, the main issue is whether the condition is reasonable or necessary in the interests of protecting the character and appearance of the area, the living conditions of neighbouring occupiers and highway safety.

Reasons

8. The appeal site comprises a converted outbuilding (the appeal building) within the sizeable garden of a detached dwelling at the end of a residential cul-de-sac. The appeal building is set slightly back from the head of the cul-de-sac and is located next to the side boundary with 20 Jasmine Close (No 20).
9. The appeal building is single storey, with a shallow roof pitch. It has its own access onto Jasmine Close and a separate parking area to the side of the building on the site frontage.
10. Condition 4 removes a wide range of PD rights for extensions, additions, alterations, the construction of additional storeys, alterations to the roof, and buildings etc incidental to the enjoyment of a dwellinghouse. These elements are contained within Schedule 2, Part 1 Class A, AA, B, C, and E of the Order.
11. The reason given for the condition is to enable the Local Planning Authority to control the development and so safeguard the character, safety, and visual amenities of the area as well as the design of the dwelling and potential neighbour amenity impact.
12. The Framework sets out the tests for planning conditions and, at paragraph 55 states that planning conditions should not be used to restrict national permitted development rights unless there is 'clear justification' to do so. The Planning Practice Guidance (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, and that blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not

¹ Council reference - SMD/2022/0371

require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. Therefore, in accordance with the Framework and PPG, 'clear justification' for removing PD rights, based on the circumstances and individual merits of the particular case, is necessary.

13. Development carried out under the specified classes of the Order is subject to certain limitations and conditions, which control the size and appearance of development carried out and the level of impact on matters such as neighbouring living conditions.
14. In this case, the front of the building is the principal elevation of the dwellinghouse. The front elevation overlooks the large garden area, and the rear wall of the appeal building is located immediately adjacent to the side boundary with No 20.
15. The proximity of the rear wall of the building to the side boundary with No 20, restricts the possibility for extensions and outbuildings at the rear of the original building. The Order also restricts extensions, outbuildings, and alterations to the front of the property. Likewise, the shallow roof pitch of the appeal building limits the scope for roof alterations and additions. Therefore, these factors severely limit development that could be carried out under PD rights.
16. Additionally, while the appeal building is located next to the side boundary with No 20, there is a comprehensive separation distance between the appeal building and No 20. There is also limited views of the appeal building from the street and other main vantage points.
17. The possibility for a side extension that displaces existing parking arrangements for the appeal building is also prevented due to the proximity to the highway. Even though a side extension to the other side gable is possible this is the furthest point away from public vantage points and neighbouring properties. Side extensions would also be subject to the limitations and conditions of the Order.
18. An extension to the appeal building could increase the number of bedrooms within the building. However, the current property has one bedroom, and two parking spaces are shown within the appeal site. As such, while the access is narrow and curved, there is no substantiated evidence to demonstrate that an additional extension would result in an increased demand for parking, and that demand would result in significant highway safety or parking implications on the road.
19. The appeal building would not benefit from Class AA because the dwellinghouse has been constructed since 28 October 2018 and the limitations of the Order would prevent the construction of additional storeys in any event.
20. In combination, the above factors taken together would limit any material effects on the character and appearance of the area, living conditions of neighbouring occupiers, or highway safety. Therefore, 'clear justification' for taking the specified PD rights away has not been demonstrated.
21. Consequently, for the above reasons, I conclude that it has not been demonstrated that there is 'clear justification' for the removal of PD rights and condition 4 of the recent permission is not reasonable or necessary, in the interests of protecting the character and appearance of the area, the living conditions of neighbouring occupiers and highway safety. As such, removal of this condition would not be contrary to Policies SS1, H1, DC1 and T1 of the Staffordshire Moorlands Local

Plan 2020, which together and amongst other things require development to be high quality, which protects the amenity of the area and provides appropriate parking provision.

Other Matter

22. I am mindful that an interested party has objected to the appeal. In addition to the matters raised in the main issue, concerns were raised about flood risk. However, while Flood Zones 2 and 3 cross part of the appeal site, flood risk matters are not in dispute between the main parties. Likewise, the Lead Local Flood Authority has not objected to the proposal and based on the evidence before me I see no reason to disagree. Given my findings above, I have found no justification to dismiss the appeal.

Conclusion

23. For the reasons given above I conclude that the condition is not reasonable or necessary. The appeal should therefore be allowed, and the disputed condition should be deleted.

N Bromley

INSPECTOR