



Appeal Decision

Site visit made on 29 August 2025

by **N Duff BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 November 2025

Appeal Ref: APP/W3005/W/25/3366321

**Cedar House, Silverhill Lane, Teversal, Sutton-in-Ashfield,
Nottinghamshire NG17 3JJ**

- 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 Jeremy Unwin against the decision of Ashfield District Council.
 - The application Ref V/2024/0424 was approved on 11 March 2025 and planning permission was granted subject to conditions.
 - The development permitted is Application to vary conditions 2,3,4,5,6,7 of planning permission V/2019/0015 – to fall in line with permitted development rights.
 - The conditions in dispute are Nos 2 and 3 which state that:
Condition 2
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 relating to class A of Part 2 of Schedule 2 (Erection of walls, fences or other means of enclosure) shall be undertaken without the prior written approval of the Local Planning Authority.
Condition 3
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 relating to Class E of Part 1 of Schedule 2 (Erection of buildings incidental to the enjoyment of the dwelling house such as greenhouses, sun houses, garden sheds) shall be undertaken without the prior written approval of the Local Planning Authority.
 - The reason given for the conditions is: *to protect the character and appearance of the area.*
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Decision

1. The appeal is allowed and the planning permission Ref V/2024/0424 for Application to vary conditions 2,3,4,5,6,7 of planning permission V/2019/0015 – to fall in line with permitted development rights at Cedar House, Silverhill Lane, Teversal, Sutton-in-Ashfield, Nottinghamshire NG17 3JJ granted on 11 March 2025 by Ashfield District Council, is varied by deleting conditions 2 and 3.

Main Issue and Background

2. The conditions in dispute restrict Permitted Development (PD) rights at the site. These are numbered conditions 2 and 3 following the grant of planning permission through a Section 73 application, which is subject of this appeal. The original planning permission¹ was for the change of use of land from agricultural to residential garden, engineering operations to move earth and create pond, erection of summer house and retaining wall at the appeal site.

¹ V/2019/0015 – Approved with conditions

3. Condition 2 removes PD rights for the erection of walls, fences or other means of enclosure and Condition 3 removes PD rights for the erection of buildings incidental to the enjoyment of the dwellinghouse, such as greenhouses, sun houses and garden sheds.
4. The planning permission Ref V/2024/0424 sought to vary several conditions, including the plan condition. Based on the evidence provided, including the most recent planning permission, I understand that the remaining conditions include only the plan condition and conditions 2 and 3 which are in dispute, all other conditions are considered by the Council to be no longer required and therefore do not appear on planning permission V/2024/0424.
5. The Council's evidence suggests that the conditions would ensure that the site remained natural in appearance and as open as possible. The reason given for both conditions 2 and 3 was to protect the character and appearance of the area.
6. The main issue is whether conditions 2 and 3 are reasonable and necessary having regard to the character and appearance of the area.

Reasons

7. The appeal site is an extension to the garden of a modern dwelling, Cedar House, which is located at the end of a cluster of properties off Silverhill Lane. The host property has dwellings to the west with countryside to the east and south beyond Silverhill Lane. The appeal site has countryside to the rear and provides a buffer between the built development to the west and countryside to the east.
8. The appeal site has been designed with various mounds with planting, including tree, shrub and vegetable planting. There are several ornamental features within the garden, which were in situ at the time of my site visit and the site had a verdant character. The site is very well screened from public vantage points.
9. It is my understanding from the evidence provided that the site is within the countryside. Whilst the Council has not provided a specific policy justification for the conditions in dispute, I have been provided with several development plan policies referenced in the Council's officer report.
10. Given the location of the appeal site, I consider Policies EV2 and ST4 of the Ashfield Local Plan Review (ALPR) to be relevant here. Which combined seek to ensure that outside the main urban areas and named settlements permission will only be given for appropriate development which must be located and designed so as to not adversely affect the character of the countryside, in particular its openness. Furthermore, Policy ST1 of the ALPR seeks to ensure that development will be permitted where it will not adversely affect the character, quality, amenity or safety of the environment.
11. The Council concluded that the development subject of planning permission V/2024/0424 was compliant with the above Policies in the ALPR and therefore acceptable. However, the Council imposed conditions to prevent the erection of outbuildings and the erection of fences, walls and gates through the provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) under Schedule 2, Part 2, Class A and Schedule 2, Part 1, Class E in order to help protect the character and appearance of the countryside and in particular the openness of the countryside.

12. With regard to conditions 2 and 3, the National Planning Policy Framework (the Framework) sets out that conditions should be kept to a minimum and only imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. A condition must meet all six tests to be justified. The Framework is clear at paragraph 55 that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. Furthermore, 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.
13. The site is well enclosed with vegetation, which is high in places particularly around its perimeters. In addition, I consider that the proposed outbuilding which was not in situ at the time of my site visit, will assist with enclosing the site from views from the east. The site has a number of trees and planted mounds across the site, which reduce openness together with reducing the area that could be built upon. The dwellings to the west of the site have long gardens with many outbuildings such as garages beyond the service road that serves the rear of those properties. Therefore, due to the enclosed nature of the site, together with built development from neighbouring properties in proximity to the site. I do not consider that ancillary domestic outbuildings, or fences, walls and gates would be particularly out of character within the immediate area.
14. Having regard to both conditions 2 and 3, the PD restrictions are self-limiting, particularly in terms of height, as any proposals exceeding these limits would require planning consent. Therefore, I am satisfied that adequate controls would remain in place irrespective of the conditions in dispute, to protect the openness, character and appearance of the area.
15. Therefore, in accordance with the Framework, and based on the evidence before me, I am not convinced that there is clear justification for the removal of national PD rights or that in accordance with the PPG that the conditions restricting the future use of permitted development rights pass the test of reasonableness or necessity.
16. Accordingly, for the above reasons, I do not find that conditions 2 and 3 are reasonable or necessary to prevent harm to the character and appearance of the area or to comply with Policies EV2, ST4 or ST1 of the ALPR which between them seek to protect the character and appearance of the countryside and the environment.
17. In addition, the disputed conditions are not reasonable or necessary to ensure that the development complies with Policies NP1, NP2 or NP4 of the Teversal, Stanton Hill and Skegby Neighbourhood Plan which in combination seek to ensure that development respects local character and respects and protects landscape character.

Conclusion

18. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed conditions 2 and 3.

N Duff
INSPECTOR