The Planning Inspectorate

Appeal Decision

Site visit made on 10 June 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 2nd July 2019

Appeal Ref: APP/B3438/W/19/3225769
325 Armshead Road, Werrington ST9 0ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr and Mrs Mayer against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2018/0121, dated 21 February 2018, was approved on 11 January 2019 and planning permission was granted subject to conditions.
- The development permitted is for the demolition of existing single storey accommodation and construction of rear single/two storey extension to dwelling.
- The condition in dispute is No 4 which states that: "*Notwithstanding the provisions of the Town & 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 Schedule 2, Part 1 Class(es) A, B, C, D 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 reason given for the condition is: "*To enable the Local Planning Authority to control future development and safeguard the Green Belt*".

Decision

1. The appeal is allowed. Planning permission ref SMD/2018/0121, for the demolition of existing single storey accommodation and construction of rear single/two storey extension to dwelling at 325 Armshead Road, Werrington ST9 0ND granted 11 January 2019 by Staffordshire Moorlands District Council, is varied, by deleting condition 4.

Background and main issue

2. Prior Approval was granted in 2018[1] for a large rear extension. The proposal the subject of this appeal was deemed to be inappropriate development in the Green Belt but was approved under very special circumstances. The Council considered that the proposal was less harmful to the openness of the Green Belt than the Prior Approval extension. The application was approved with a condition that removed Classes A to E, of schedule 2, part 1 of the General Permitted Development Order 2015, which establishes residential permitted development rights. It was the Council's intention to 'swap' the Prior Approval extension with the proposal.

3. Taking the above background into account, the main issue is therefore whether the condition is reasonable and necessary having regard to the preservation of the North Staffordshire Green Belt.

[1] Planning Application Reference: HNT/2018/0016

Reasons

4. The Development Plan for the area consists of the Staffordshire Moorlands Core Strategy Development Plan Document 2014 (CS). Policy SS6c, part 6 of the CS explains that strict control will be exercised over inappropriate development in the Green Belt and only allow exceptions as defined by Government policy. Furthermore, Paragraph 145 of the National Planning Policy Framework (The Framework) establishes that development in the Green Belt would be inappropriate unless it meets one of the exceptions. Paragraph 145(c) allows for the extension to a building provided it does not result in a disproportionate addition over and above the size of the original building.

5. The appeal site is a residential plot within the North Staffordshire Green Belt. The Council considered that the proposal was inappropriate development in the Green Belt. It was deemed to be a disproportionate addition when taken in combination with previous extensions. Condition 4 was applied to remove permitted development (PD) rights. This removed the rights to enlarge or extend the dwelling, change the roof, add a porch and erect outbuildings. Therefore, the effect of removing this condition would enable further extensions and outbuildings to be erected on the site without requiring planning permission.

6. However, the Framework advises that conditions should not be used to restrict PD rights unless there is clear justification to do so. Paragraph 55 requires conditions to be necessary and reasonable. Furthermore, the Guidance[2] states that conditions that restrict the future use of PD rights will rarely pass the test of necessity and should only be used in exceptional circumstances.

7. The Council has explained that the Prior Approval represents a realistic fall-back position that would be more harmful to the openness of the Green Belt. However, it is not uncommon for buildings in the Green Belt to enjoy PD rights, whose employment could also affect the openness of the Green Belt. As such, the fall-back position would only be of limited weight when balancing the effect of proposed development on the Green Belt taking into account advice in the Framework.

8. The condition seeks to 'swap' the Prior Approval with the approved extension but also removes a broad range of PD rights unconnected with the proposal and is therefore unreasonable. Furthermore, to remove Permitted Development rights to protect the openness of the Green Belt, would not meet the high bar of exceptional circumstance set out in the Guidance. The condition is therefore unnecessary. Consequently, the condition is neither necessary nor reasonable and thus fails to pass the tests in the Framework.

Conclusion

9. For the above reasons I conclude that the appeal should succeed. I will vary the permission by deleting the disputed condition (condition 4).

Ben Plenty

INSPECTOR

[2] Paragraph: 017 Reference ID: 21a-017-20140306