The Planning Inspectorate

Appeal Decision

Site visit made on 23 May 2016

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 June 2016

Appeal Ref: APP/R0660/W/16/3144395
Longlea, Langley Road, Langley, Cheshire East SK11 0DR

- 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 D Clarke against the decision of Cheshire East Council.
- The application Ref 15/1319M, dated 18 March 2015, was approved on 21 August 2015 and planning permission was granted subject to conditions.
- The development permitted is erection of dwelling.
- 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 or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) A & E of Part 1 Schedule 2 of the Order shall be carried out.
- The reason given for the condition is: To ensure continued control over further development on site, having regard to the scale of dwelling approved, the potential impact of further development on residential amenity and policies GC1, GC12, BE1, DC1 & DC3 of the Macclesfield Borough Local Plan 2004.

Decision

1. The appeal is allowed and the planning permission Ref 15/1319M for erection of dwelling at Longlea, Langley Road, Langley, Cheshire East SK11 0DR granted on 21 August 2015 by Cheshire East Council, is varied by deleting condition 4.

Procedural matter

2. The appeal form refers to condition 9 of planning permission 12/3937M. However, given the grant of a subsequent permission (15/1319M), the appellants have confirmed that it is actually condition 4 of the latter permission that is in dispute. I have dealt with the appeal on this basis.

Background and Main Issues

3. The existing dwelling on the site was granted permission in 2012 subject to conditions, including condition 9 that removed all permitted development rights within Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. The appellants made a subsequent application to remove this condition and the Council granted a new permission that removed condition 9 but imposed a condition (condition 4) under the provisions of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) that removed permitted development rights under Part 1 Schedule 2 Class A (extensions) and Class E (outbuildings).

4. The Council's concerns relate to the potential increase in the scale of the dwelling relative to its surroundings and the effects on the living conditions of neighbouring occupiers.

5. I therefore consider the main issues to be whether the condition is necessary and reasonable in the interests of (i) the character and appearance of the area; and (ii) the living conditions of neighbouring occupiers with regard to privacy and outlook.

Reasons

Character and appearance

6. The appeal property is located within the Green Belt, being one of a number of detached dwellings of varying design in a ribbon of residential development that are generally set behind extensive frontages and on relatively large plots. From Langley Road, Longlea appears as a two-storey dwelling but due to its construction, looking from the rear garden, there are three distinct levels to the rear elevation.

7. The Council were concerned that the construction of the dwelling was been undertaken before certain pre-commencement conditions had been complied with in respect of an earlier permission. However, this situation was regularised by the subsequent grant of permission 12/3937M, which included condition 9. This contrasted with the original permission, which was not subject to any such restrictions. National Planning Practice Guidance (PPG) is clear that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.

8. The imposition of the disputed condition refers to saved Policy GC1 of the Macclesfield Borough Local Plan (2004) (LP), which sets out a number of criteria by way of which development in the Green Belt is considered to be acceptable. This includes the limited extension or alteration of existing dwellings subject to the provisions of LP Policy GC12, which states that such changes to existing houses in the countryside may be granted for up to 30% of the original floor space. However, it also includes a number of criteria that may provide exceptions to this threshold, including where this would relate to development in a group of houses or ribbon of development and provided it would not be prominent or adversely affect the character and appearance of the countryside.

9. Class A of the GPDO does not permit front extensions beyond a wall forming the dwelling's principal elevation, which would therefore prevent any material alteration to the front of the property. Because of this, any material increase in the size of the dwelling would be at the rear where it would not be seen in nearby public views. Furthermore, it does not appear materially larger than its neighbours.

10. Consequently, I am satisfied that there would be no visible harm to the character and appearance of the area resulting from extensions to the dwelling, such that there would be any conflict with the exceptions within LP Policy GC12.

11. I now turn to the potential for outbuildings to be erected within the garden of the property. The site is bordered by fencing and substantial hedges with a

number of trees also along the rear boundary. At my site visit, I observed that a number of neighbouring properties have sheds and greenhouses within their rear gardens that result in only very minimal overall effects on the character and appearance of the area. To restrict the appellants from introducing similar additions would not, in my view, be reasonable or necessary. I note the comments from the local Councillor regarding the potential for garden structures to be visible from properties in Jarman due to the bend in the road. However, views across neighbouring gardens are to be expected in a residential area and outbuildings are not uncommon features within such scenes. I do not therefore consider that this argument is sufficient to alter my overall conclusions.

12. Accordingly, I do not find that the exercise of permitted development rights relating to extensions or outbuildings would conflict with the overall aims of saved LP Policies GC1 and GC12. Neither would there be any overall conflict with the design principles of saved LP Policies BE1 and DC1 that, broadly, require development to respect the character of its surroundings. Further, in the context of the development along Langley Road and bearing in mind the limits placed on permitted development rights within the GPDO, I do not consider that there would be any unacceptable effects on the openness of the Green Belt.

Living conditions

13. The rear elevation of the dwelling broadly follows the building line of the main rear elevations of the neighbouring properties on either side. However, there is a large paved terrace at first floor level that leads from the dwelling's rear rooms which include the kitchen and dining areas. Because of the rise in the road, Longlea sits at a higher level than its neighbour, Greenacres. Consequently, from the terrace, Greenacres' rear garden is in clear view from the terrace. Further, Greenacres has a ground floor room that projects beyond its main rear elevation with side windows that face towards Longlea. Given this existing situation and the limits within the GPDO in respect of rear extensions, there would not, in my view, be a material effect on the privacy of Greenacres' occupiers as a result of the appellants exercising their permitted development rights. Because Longlea sits at a lower level than the dwelling on the other side, there is no significant potential for extensions to affect the living conditions of the occupiers of this property.

14. Saved LP Policy DC3 seeks, amongst other things, to protect the amenity of the occupiers of neighbouring properties through preventing development from being overbearing and resulting in loss of privacy. Whilst the proposal could be extended under the provision of Class A, taking into account the limits to permitted development and the residential context, wherein a degree of overlooking is to be expected, I do not consider that the results would be so harmful to the privacy or outlook of neighbouring occupiers, to provide the exceptional circumstances for the imposition of the disputed condition.

15. The existing boundary treatments are sufficient to ensure that the erection of outbuildings would be well-screened. Further, the main outlook from the properties along Langley Road is to the hilly and dramatic countryside to the north rather than to the side.

16. Consequently, there would be no overbearing effects in views from the neighbouring dwellings or their rear gardens and I do not, therefore, find any overall conflict with saved LP Policy DC3.

Conclusion

17. I conclude that there are no exceptional circumstances to justify the retention of the condition, which is neither reasonable nor necessary. Accordingly, for the above reasons and having had regard to all other matters raised, the appeal succeeds.

Hayden Baugh-Jones

Inspector