The Planning Inspectorate

Appeal Decision

Site visit made on 15 January 2014

by Christina Downes BSc DipTP MRTPI

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

Decision date: 10 February 2014

Appeal Ref: APP/R0660/A/13/2207393
Rose Cottage, Castle Hill, Mottram St Andrew, Macclesfield, Cheshire SK10 4AX

- 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 Silkdale Homes Ltd against the decision of Cheshire East Council.
- The application Ref 13/1883M, dated 7 May 2013, was approved on 20 August 2013 and planning permission was granted subject to conditions.
- The development permitted is described as "removal of Condition 2 on approved application 12/1269M (retention of rebuilt dwelling and replacement garage)".
- The condition in dispute is No 2 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (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 Classes 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 the extent of further building on the site having regard to policies BE1 and DC1 of the Macclesfield Borough Local Plan 2004 and the guidance contained within the NPPF in respect of the Green Belt*.

Decision

1. The appeal is allowed and the planning permission Ref 13/1883M described as the removal of Condition 2 on approved application 12/1269M (retention of rebuilt dwelling and replacement garage) at Rose Cottage, Castle Hill, Mottram St Andrew granted on 20 August 2013 by Cheshire East Council, is varied by deleting Condition 2.

Background

2. Planning permission was originally granted for a two-storey rear extension and various alterations to Rose Cottage in 2011 (11/1100M). However its poor structural condition and lack of foundations meant that much of the original dwelling was lost in the process. In 2012 retrospective permission was granted for the rebuilt dwelling and a replacement garage, which was subject to a condition removing a range of permitted development rights (12/1269M). A further retrospective permission was granted for a single storey side extension, a two-storey rear extension, rear conservatory and modification and resiting of the garage (12/3378M). An application was made to remove the condition on 12/1269M relating to permitted development rights.

3. The Council granted permission but imposed a new condition removing those rights relating to extensions (Class A) and outbuildings (Class E) (13/1883M).

4. The original Rose Cottage was a modest sized timbered dwelling, which was considered by the Council to be of local importance due to its age. The Local Listing was retained on the reconstructed property but as there is now little of the historic fabric left, the Council has subsequently agreed to remove it.

Reasons

5. The appeal site is within a rural location in the North Cheshire Green Belt. To the south-east there are a variety of residential properties, including some substantial dwellings in large grounds. Circular 11/95: *The Use of Conditions in Planning Permissions* advises that permitted development rights should only be restricted in exceptional circumstances.

6. Rose Cottage, as it originally stood, would not have been subject to a restriction on householder permitted development rights due to its age. The rebuilt dwelling was similar in scale and footprint to its predecessor. One of the reasons for the condition removing permitted development rights was its Locally Listed status. This no longer applies. The other reason concerned its location in the Green Belt. In 2011 the Council seem to have been concerned that work at the site was being undertaken without the benefit of planning permission. However the situation was subsequently regularised by the approval of the reconstructed dwelling and then its extension.

7. National and local planning policy makes clear that the Green Belt and its open character are to be protected. However Parliament intends that householders should be afforded a degree of flexibility to extend or improve their homes without the need for express planning permission. This applies equally inside the Green Belt as it does outside. Circular 11/95 says there should be exceptional circumstances to remove those rights. Simply being in the Green Belt is not sufficient or it would be necessary to remove those rights from all properties. Although the rights have recently been extended there is no indication that this additional freedom should not apply inside the Green Belt.

8. The original Rose Cottage was modest in size but the Council permitted its extension without imposing any restriction on future works that may be undertaken as permitted development. Furthermore I am not aware that the Council has any specific "small dwellings" policy, which protects such properties from enlargement. The site is relatively well screened with a boundary wall and hedgerows. Whilst there would be space for additional outbuildings it seems to me that their impact on openness is likely to be relatively limited. To my mind there are therefore no site specific reasons here which would justify limiting the freedom of the home owner as conveyed by statute.

9. The reason for imposing the condition also refers to saved Policies BE1 and DC1 concerning design and character. Whilst the provisions of these policies are clearly important they do not seem to me to be particularly pertinent to the present appeal. The site is within an Area of Special County Value but the reason for imposing the condition did not refer to any harm to this local designation.

10. I conclude that there are no exceptional circumstances to justify the retention of the condition, which is neither reasonable nor necessary. I have no reason to believe that the remaining conditions on the planning permission are other than in accordance with Circular 11/95. I have had regard to all other matters

raised but have found nothing to alter my conclusion that the appeal should succeed.

Christina Downes

INSPECTOR