The Planning Inspectorate

Appeal Decision

Site Visit made on 8 June 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2021

Appeal Ref: APP/B3438/W/21/3270472
Land to the side of Ridgeway House, Leek Road, Longsdon ST9 9QF

- 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 P Latham against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2020/0117, dated 18 March 2020, was approved on 23 October 2020 and planning permission was granted subject to conditions.
- The development permitted is erection of a dwelling, alterations to existing vehicular access, construction of car parking spaces.
- The condition in dispute is No 17 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, E and F or Part 2 Class A or Part 20 shall be carried out within the site 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 the development and so safeguard the Green Belt, the character and visual amenities of the area and to protect the residential amenities of neighbouring residents.*

"This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 26 July 2021"

Decision

1. The appeal is allowed and the planning permission Ref SMD/2020/0117 for the erection of a dwelling, alterations to existing vehicular access, construction of car parking spaces at Land to the side of Ridgeway House, Leek Road, Longsdon ST9 9QF is varied by modifying condition 17 and is now subject to conditions as set out in the attached schedule.

Procedural Matters and Main Issues

2. Planning permission has been granted for a dwelling in the Green Belt. The appellant seeks permission to carry out this development without complying with condition 17 of the permission. This follows previous approvals for a new dwelling on this site, the circumstances of which are not before me. As such I assume that the proposal meets one of the categories of development not regarded as inappropriate development in the Green Belt. Whilst I must accept that the approved scheme is not inappropriate development, I am nonetheless required to consider the implications of the appeal proposal for Green Belt purposes in terms of keeping land permanently open. The main issues are, therefore:

- whether the openness of the Green Belt and the character and appearance of the area would be harmed;
- the effect of the development on the living conditions of the occupiers of a neighbouring property, and;
- in the event that allowing development would lead to inappropriate development in the Green Belt, whether any harm by inappropriateness, or any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances which would be necessary to justify the development.

Reasons

Openness and character and appearance

3. The National Planning Policy Framework (2021) (the Framework) (paragraph 137) indicates that openness is an essential characteristic of the Green Belt with a fundamental aim of Green Belt policy being to prevent urban sprawl and keep land permanently open.

4. Class A and B, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) limit the size and height of the extensions that may be permitted. If those additions were carried out on the appeal dwelling, they would not project excessively from the sides or rear of the property, nor would they be allowed to exceed the height of the roofline. Furthermore, limitations are placed on the size and extent of additions which can protrude from the dwelling's primary elevation. And so, the works that could be carried out under Class A and B of Part 1 of the GPDO would appear subordinate to the original dwelling and therefore would not be harmful to the openness of the Green Belt. With regards to character and appearance, additions to the dwelling under these classes would be sympathetic to the scale of the original dwelling and therefore would not appear unduly dominant and thus would not be harmful to the character and appearance of the area.

5. Class E, Part 1, Schedule 2 of the GPDO permits a building or enclosure within the curtilage, and incidental to the enjoyment, of a dwelling house. From a visual perspective, due to the enclosed nature of the rear of the site, there would be limited visibility of a building or enclosure within the grounds of the appeal property. However, from a spatial perspective, the development would inevitably lead to a reduction in the openness of the Green Belt by introducing additional built elements at the site. Such development, therefore, whilst causing no harm to the character and appearance of the area, would result in moderate harm to the openness of the Green Belt.

6. Class F, Part 1, Schedule 2 and Class A, Part 2, Schedule 2 of the GPDO permit hard surfaces incidental to the enjoyment of a dwellinghouse and the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, respectively. Hardstanding laid in the front or rear garden would attract domestic activities and garden paraphernalia which would be harmful to the openness of the Green Belt. I accept that views of the rear of the site from public land are limited because of the presence of mature landscaping and trees. Indeed, the adjacent field and associated landscaping would not be sensitive to development constructed under Class F and Class A

Part 2 of the GPDO. Nor would development under these classes appear incongruous or visually dominant to be harmful to the street scene, bearing in mind the restrictive conditions set out in the GPDO. However, the fact that development cannot be seen from public land together with the lack of harm to the character and appearance of the area does not mitigate the harm found to the openness of the Green Belt.

7. And so, I find that development constructed under the GPDO with regard to Class A and B would not have a harmful effect on the openness of the Green Belt and would comply with policy DC1 of the Local Plan (2020) which seeks development that is well designed and reinforces local distinctiveness. On this basis, condition 17 is not necessary to protect Green Belt openness and the character and appearance of the area. Nonetheless, I have found that development under Class E, Class F and Class A Part 2 of the GPDO would cause moderate harm to the openness of the Green Belt. In accordance with the Framework, substantial weight must be given to this harm.

Living conditions

8. In restricting permitted development rights, the Council identified the impact additions or alterations could have on the living conditions of the occupiers of Ridgeway House. Any addition or alteration to the dwelling's roof, including the garage, would be limited to the confines of the existing roof. Plus, any windows overlooking the neighbouring property would need to be obscure glazed (by virtue of the conditions under Class B and condition 18 of the planning consent). Permitted development, therefore, would not appear overbearing on or be detrimental to the privacy of the neighbouring occupiers.

9. There are also conditions in Class A, Part 1 which the enlargement, improvement or other alteration of the dwelling house would need to satisfy. These conditions would prevent development within close proximity of the shared boundary with Ridgeway House. On this basis, condition 17 is not required to protect the living conditions of neighbouring occupiers when in their garden.

10. And so, condition 17 is not reasonable or necessary to make the development acceptable with regard to the effect on the living conditions of the occupiers of the neighbouring property or to comply with Policy DC1 of the Local Plan (2020) and the Framework in that respect.

Other Considerations and Very Special Circumstances

11. Condition 17 removes Class AA of Part 1 and Class 20 of the GPDO. The appeal dwelling is being constructed after 5 March 2018 and therefore the dwelling fails to meet the criteria of concern. Condition 17 is unnecessary in this regard.

12. Development under Class E, Class F and Class A, Part 2 of the GPDO would lead to a loss of openness to the Green Belt. Substantial weight is given to the harm to the Green Belt and development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

13. There are no other considerations before me to clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to

justify development under Class E, Class F and Class A Part 2 of the GPDO do not exist.

Conclusion

14. For the reasons set out above, condition 17 is not reasonable or necessary to prevent harm to the openness of the Green Belt by way of development under Class A and B, Part 1 of the GPDO or Class AA of Part 1 and Class 20. Nor is the condition necessary to protect the character and appearance of the area or the living conditions of neighbouring occupiers.

15. Condition 17 is necessary and reasonable, however, to ensure that development by way of Class E, Class F and Class A Part 2 of the GPDO does not harm the openness of the Green Belt.

16. Therefore, I shall redraft the condition. In doing so I will vary the original permission by varying condition 17 and impose a newly worded replacement which will be included in the schedule of conditions which follows.

17. In conclusion, for the reasons given above, and taking into account all other matters raised, the appeal is allowed.

Conditions

18. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, alongside rewording condition 17, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

19. Conditions 1, 19 and 20 are imposed in the interests of proper planning.

20. Conditions 2, 3, 5 are imposed in the interests of tree protection and preserving and enhancing the character and appearance of the area.

21. Conditions 4, 6, 8, 9 and 14 are imposed in the interests of protecting the environment through appropriate drainage, landscaping, contamination measures.

22. Conditions 7 and 18 are imposed in the interests of protecting the living conditions of surrounding residents.

23. Conditions 10,11 12 13, 15 and 16 are imposed in the interests of highway safety.

24. Condition 17 is imposed in the interests of protecting the openness of the Green Belt.

CONDITIONS SCHEDULE

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The first action on commencement of development, prior to any further action (including any site clearance, site stripping or site establishment) shall

be the erection of temporary tree protection barriers and advisory notices for the protection of the existing trees to be retained, in accordance with guidance in British Standard 5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations, and as set out in the Tree Heritage Ltd Arboricultural Impact Assessment reference THL-R18/134 dated 29th January 2019, and this shall be retained in position for the duration of the period that development takes place, unless otherwise agreed in writing by the Local Planning Authority. Within the fenced areas there shall be no excavation, changes in ground levels, installation of underground services, provision of hard surfacing, passage of vehicles, storage of materials, equipment or site huts, tipping of chemicals, waste or cement, or lighting of fires unless otherwise agreed in writing by the Local Planning Authority.

3. The development shall be constructed only in full accordance with the tree protection details, in particular the special construction measures of no-dig cellular confinement load support system for the parking area and ramped section of drive where they encroach within the Root Protection Areas of retained trees, and the ramp and parapet wall/tree protection details, as noted in the Tree Heritage Ltd Arboricultural Impact Assessment reference THL-R18/134 dated 29th January 2019, the Sammons Architectural ""Site Plan"" Drg. No. 2019-2462-05 Rev B and the Ivan J Cooper (Moorside) Ltd ""Parapet Wall with Tree Root Protection Details"" Drg. No. 3583-09.

4. Prior to installation of foul and surface water drainage, details of the foul and surface water drainage shall be first submitted to and approved in writing by the Local Planning Authority. Foul and surface water drainage shall be completed in accordance with the approved details.

5. Prior to any works above foundation level, details of alteration to the front boundary wall including elevation drawings of the proposed works and any new building materials shall be submitted to and approved in writing by the Local Planning Authority and the wall shall be implemented in exact accordance with the approved details.

6. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing number 2019-2462-05B and to a standard in accordance with the relevant recommendations of British Standard [4428:1989]. The works shall be carried out prior to the occupation of any part of the development or in accordance with a timetable to be agreed in writing by the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season thereafter.

7. Unless prior permission has been obtained in writing from the Local Planning Authority all noisy activities shall be restricted to the following times of operations. - 08:00 - 18:00 hours (Monday to Friday); - 08:00 - 13:00 hours (Saturday) - No working is permitted on Sundays or Bank Holidays. In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

8. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the

Local Planning Authority. Development shall not commence further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed in writing by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exists to any identified receptors, development shall not recommence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment has been prepared, and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme and prior to bringing the development into first use, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and approved in writing by the Local Planning Authority.

9. No top soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development, a suitable methodology for testing this material shall be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology shall include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing to by the Local Planning Authority. Only soils which have been tested and found to be suitable for use shall be imported onto the site.

10. The development hereby permitted shall not be brought into use until the visibility splays shown on plan ref. 2019-2462-05B have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.

11. The development hereby permitted shall not be brought into use until the widening of the access to the site within the limits of the public highway has been completed.

12. The development hereby permitted shall not be brought into use until the parking, servicing and turning areas for existing and proposed dwellings have been provided in accordance with the approved plans. The parking, turning and servicing areas shall thereafter be retained unobstructed as parking, turning and servicing areas for the life of the development.

13. Any gates shall be located a minimum of 5m rear of the carriageway boundary and shall open inwards away from the highway.

14. The development hereby permitted shall not be brought into use until details of the surface water drainage interceptor, sited to the rear of the highway boundary, connected to a surface water outfall or drained to SUDS principles, has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall thereafter be constructed in accordance with the approved details prior to the development being first brought into use.

15. The development hereby permitted shall not be brought into use until the access drive rear of the public highway has been surfaced in a bound

material for a minimum distance of 5m back from the site boundary. The surfacing shall thereafter be maintained.

16. The garage indicated on the approved plan shall be retained for the parking of motor vehicles and cycles. It shall at no time be converted to living accommodation without the prior express permission of the Local Planning Authority.

17. 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 Class E and Class F, Part 1; and Class A, Part 2 shall be carried out within the site without express planning permission first being obtained from the Local Planning Authority.

18. The window(s) in the south west elevation shall be installed with obscured glazing. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as subsequently may be amended or re-enacted) this/these window(s) shall not be re-glazed with any transparent materials or enlarged or otherwise altered, nor shall any additional door, window or other opening be formed in that elevation unless a further planning permission has first been granted on application to the Local Planning Authority.

19. The external facing and roofing materials shall be in accordance with those specified on drawing number 2019-2462-07B.

20. The development hereby permitted shall be carried out in accordance with the following approved plans: 2019-2462-04A Planning Proposal – Location and Block Plan; 2019-2462-05B; Planning Proposal – Site Plan; 2019-2462-07B Planning Proposal – Plans and Elevations.

R Walmsley

INSPECTOR