

Planning Committee: 10 October 2017

Item Number: 11

Application No: [W 17 / 1525](#)

Town/Parish Council: Blackdown
Case Officer: Emma Spandley
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Registration Date: 21/08/17
Expiry Date: 16/10/17

**Chesford Bridge House, Bericote Road, Blackdown, Leamington Spa,
CV32 6QP**

Application for removal of condition No. 4 (Removal of permitted development rights) of planning reference W/13/0376 (Erection of a single storey side extension and erection of a detached outbuilding.), granted 30th May 2013. FOR
Mr V Tara

This application is being presented to Committee due to an objection from the Parish Council having been received.

RECOMMENDATION

Planning Committee are recommended to GRANT the removal of Condition 4 attached to planning application reference - W/13/0376.

DETAILS OF THE DEVELOPMENT

The application proposes the removal of Condition 4, which removed the permitted development rights, of planning permission no. W/13/0376.

THE SITE AND ITS LOCATION

The application property is large detached dwelling located on the south side of Bericote Road. The site is located within the West Midlands Green Belt. The existing driveway is located to the West of the main house and sweeps to the east.

PLANNING HISTORY

In May 2013 planning permission was granted for the erection of a single storey side extension and erection of a detached outbuilding (Ref: W/13/0376). Condition 4 stated as follows:

*"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Part 1 (Classes A, B, D and E) of Schedule 2 of this Order, without the prior permission of the Local Planning Authority. **REASON:** Due to the site being located within the Green Belt it is considered appropriate for the Local Planning Authority to retain control over future development in the interests of*

the openness of the Green Belt in accordance with Policy RAP2 of the Warwick District Local Plan 1996 - 2011."

RELEVANT POLICIES

- National Planning Policy Framework
- DS19 - Green Belt (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

SUMMARY OF REPRESENTATIONS

Old Milverton and Blackdown Joint Parish Council: Objection. The Parish Council is aware of the steady erosion of the narrow band of Green Belt North of Leamington and in particular the Blackdown area. That erosion has continued, mostly owing to permitted development, commercial expansion and the assumption of Very Special Circumstances.

The narrow strip of Green Belt serves to separate Kenilworth from Leamington. The valued setting of this open Green Belt area, close to Ashow on the East and Hill Wooton to the West is defined by and contained within a large bend/loop in the course of the River Avon. It would be inappropriate to compare this area with other Green Belt areas which may have the same condition applied.

In the very recent Planning Inspection of the Warwickshire Local Plan the Planning Inspector, laid much emphasis on the need to retain open space, and prevent coalescence. If development took place in this location which fulfils all 5 reasons to justify Green Belt status, then open space would be consumed and lead to further coalescence between Kenilworth and Leamington.

The District Council was correct in maintaining control of development in the open space offered by this crucial Green Belt area and as the need is significantly greater now, Condition 4 of planning permission should remain.

Any future application should be judged on its own merits and not by way of removal of Condition 4.

ASSESSMENT

The main issue relevant to the consideration of this application is whether the planning condition relating to the removal of Permitted Development rights (condition 4) is reasonable and would pass the "6 tests" set out within the NPPF, as set out below.

The main powers relating to local planning authority use of conditions are in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990.

Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose "such conditions as they think fit". This power must be interpreted in light of material factors such as the National Planning

Policy Framework (NPPF), the National Planning Policy Guidance (NPPG), and relevant case law.

Paragraph 203 of the National Planning Policy Framework states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions"

Paragraph 206 of the National Planning Policy Framework states "Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects."
- 7.

The policy requirement above is referred to in this guidance as the 6 tests. The NPPG states '*conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances*'.

The dwelling is set within extensive grounds, which is not uncommon within the Green Belt. The Council's original concern related to uncontrolled development within the Green Belt and in particular the construction of extensions and outbuildings. A Local Authority must have strong justification for removing permitted development rights.

Local and national policies seek to protect the openness of the Green Belt, the NPPF paragraph 89 and 90 sets out the exceptions to inappropriate development within the Green Belt and extensions and alterations to dwellings are not considered to be inappropriate development as long as they are not disproportionate. Policy H14 of the Warwick District Local Plan 2011-2029 sets out what the District Council considers to be disproportionate.

Recent appeal decisions have determined that removing Permitted Development Rights within the Green Belt is neither reasonable nor necessary in the interests of protecting the openness of the Green Belt and as such fail the tests set out in paragraph 206 of the NPPF. Further, if properties in the Green Belt were to be restricted on the amount of development which could be undertaken without formal planning permission, i.e. under permitted development, then properties in the Green Belt would be specifically excluded from the relevant permitted development rights provided under the Permitted Development Order.

However, as the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended places no restrictions on permitted development rights in the Green Belt, as it does with other designated areas such as National Parks, the removal of condition 4, in this instance is considered to be acceptable.

CONDITIONS

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan 1324/P102 and site plan 1324/P101 submitted on 30th May 2013 and approved drawings No.1382/05; 1382/06; 1382/07; 1382/08b; 1382/09A &1382/11A and specification contained therein, submitted on 20TH March 2013. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

 - 2 No facing and roofing materials shall be used other than materials similar in appearance to those used in the construction of the exterior of the existing building. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011.

 - 3 The single storey side extension, shown as an independent annexe on drawing No.1382/08b & 1382/09A hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Chesford Bridge House and shall only be occupied by members of the family occupying Chesford Bridge House and shall not be used as a separate dwelling. **REASON: :** The site is located within the Green Belt and the local planning authority considered it appropriate to retain control of development in the interests of the openness within the Green Belt in accordance with Policy RAP2 of the Warwick District Local Plan 1996 - 2011.
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