



PLANNING STATEMENT

Glencoe Villa, Snailswell Lane, Ickleford, SG5 3TS

Job Ref: 21/130

Date: July 2024



Prepared by Tom Donovan BA (Hons), MA, MRTPI on behalf of

PETER GEORGE TOWN PLANNING



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Section 1: Introduction & Background

- 1.1 We are instructed by Mr and Mrs Del Basso to prepare and make an application under Section 73 of the Town and Country Planning Act 1990 to remove Condition 9 of planning permission reference 23/00505/S73.
- 1.2 The applicant does not consider that the inclusion of the Condition is well-justified and the case for this is made in later sections of this statement.

Relevant Planning History

Ref.	Proposal	Decision (Decision Date)
24/01191/NMA	Alterations to type, size and position of fenestration and minor revisions to the detailing and materiality of the proposed (as Non-Material Amendment to planning permission 23/00505/S73 granted 20.04.2023)	Granted 18/06/2024
23/00505/FP	Variation of Condition 2 (approved plans and details) of planning permission 22/00172/FP granted 28/03/2022 for the erection of one detached four bedroom dwelling with associated access, car parking and hard and soft landscaping following the demolition of existing structures and hardstanding.	Granted 19/04/2024
22/02627/FP	Variation of condition 2 (revision of dwelling design) of previously approved planning permission 22/00172/FP granted 28/03/2022 - erection of one detached four-	Refused 08/12/2024



	bedroom dwelling with associated access, car parking and hard and soft landscaping following the demolition of existing structures and hardstanding.	
21/01300/FP	Erection of one detached 3-bed dwelling.	Refused 14/06/2021
20/01168/FP	Erection of one detached single storey 3-bed dwelling.	Granted 27/10/2020



Section 2: Analysis of the Site and Surroundings

The Application Site

- 2.1 The application site is an irregular parcel of land situated to the northern side of Snailswell Lane connected to *Glencoe Villa* which is a large detached residential dwelling to the south-west. Although well-connected to the main part of the village, the site is located beyond the defined settlement boundary of Ickleford and is thus located within the Green Belt.



Figure 1 - Aerial Image

- 2.2 The site was formerly used as a coal yard (now storage yard) and a number of structures and large areas of hardstanding are located within the site



associated with this former use. Part of the site was used as residential garden in association with the existing dwelling to which it is currently related. The site is heavily overgrown in places containing a large number of trees none of which are protected by way of a TPO.



Figure 2 - Existing Site Photographs

- 2.3 The site has an existing vehicular access at the southern end onto Snailswell Lane with the site containing a significant amount of hardstanding to accommodate cars and larger industrial/commercial vehicles in association with its commercial use.



Surroundings

- 2.4 The site is primarily surrounded by existing residential development forming a relatively loose-knit arrangement around Snailswell Lane. There are several properties further along Snailswell Lane to the west, the majority of which are reasonably sizable detached properties within generous grounds. There is also a small estate of park homes immediately to the east of the site (to the north/north-east of Snailswell Lane).
- 2.5 The site does not contain or lie adjacent to any assets of historic significance. The site lies within Flood Zone 1 and is therefore at limited risk of flooding.



Section 3: The Development Proposal

3.1 The proposed development can be described as follows:

“Removal of Condition 9 (removal of permitted development rights) of planning permission 23/00505/S73 granted 19/04/2023 for the erection of one detached four bedroom dwelling with associated access, car parking and hard and soft landscaping following the demolition of existing structures and hardstanding.”



Section 4: Relevant Planning Policy

National Planning Policy Framework

- 4.1 The Government policies on different aspects of planning are set out in the National Planning Policy Framework 2023 (the Framework).
- 4.2 The relevant sections of the Framework are as follows:
- Section 2: Achieving sustainable development
 - Section 5: Delivering a sufficient supply of homes
 - Section 8: Promoting healthy and safe communities
 - Section 9: Promoting sustainable development
 - Section 11: Making effective use of land
 - Section 12: Achieving well-designed places
 - Section 13: Protecting Green Belt land
 - Section 14: Meeting the challenge of climate change, flooding and coastal change
 - Section 15: Conserving and enhancing the natural environment

Development Plan

- 4.3 Section 38(6) of the Planning Compulsory Purchase Act 2004 states that:



“If regard is to be had to the development plan for the purpose of any determination under the Planning Acts, the determination must be made in accordance with the plan unless material considerations dictate otherwise.”

4.4 The development plan context for the planning application is provided by:

- North Herts Local Plan 2011-2031

4.5 Policies within the North Herts Local Plan are considered to be out-of-date and therefore the amount of weight attributed to them should be dictated by their degree of consistency with the Framework. The following policies are considered relevant to the consideration of this application:

Strategic Policies

- Policy SP1: Sustainable Development in North Hertfordshire
- Policy SP2: Settlement Hierarchy and Spatial Distribution
- Policy SP5: Countryside and Green Belt
- Policy SP6: Sustainable Transport
- Policy SP8: Housing
- Policy SP9: Design and Sustainability
- Policy SP11: Natural Resources and Sustainability
- Policy SP12: Green Infrastructure, Landscape and Biodiversity

Development Management Policies

- Policy T1: Assessment of Transport Matters



- Policy T2: Parking
- Policy D1: Sustainable Design
- Policy D3: Protecting Living Conditions
- Policy D4: Air Quality
- Policy NE1: Landscape
- Policy HE11: Contaminated Land

Supplementary Planning Documents

- Vehicle Parking at New Development SPD September 2011



Section 5: Planning Analysis

Main Issues

- 5.1 The main issue in the determination of the planning application is the effect that the removal of Condition 9 of planning permission ref. 23/00505/S73 would have on the openness, purposes and visual amenities of the Green Belt.

Discussion

- 5.2 The online Planning Practice Guidance (PPG) sets out at Paragraph 017 that:
- “Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.”*



- 5.3 In granting planning permission for the erection of a detached dwelling on the site, the Council determined that the proposed development would not be inappropriate development in the Green Belt.
- 5.4 The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) does not restrict permitted development rights relating to development within the curtilage of a dwellinghouse for Classes A-E in the Green Belt. Indeed, given that there are some restrictions to permitted development rights (within a national park or conservation area, for instance), it is reasonable to conclude that, had it been the intention of the Government to limit permitted development rights in the Green Belt, it would have done so.
- 5.5 Accordingly, it is reasonable to conclude that small-scale development that falls within these categories (Classes A-E of the GPDO), including outbuildings, would not conflict with the purposes of the Green Belt or its essential characteristics. On this basis, we do not consider that a condition restricting permitted development rights is reasonable or necessary in the interests of the openness and visual amenities of the Green Belt. Such would not therefore meet the tests referred to in the PPG.



Summary

- 5.6 For the reasons set out above, it is considered that Condition 9 of planning permission ref. 23/00505/S73 does not meet tests of reasonableness or necessity and should therefore be removed.

Precedent Cases

Case 1: Appeal Ref. APP/W0530/W/21/3272766: Church View, Newmarket Road, Stow-Cum-Quy, CB25 9AQ (Appeal Decision attached as Appendix 1)

- 5.7 In this appeal, it was very clearly concluded that a condition which restricted permitted development rights in association with a dwelling in the Green Belt is not usually justified. Indeed, in allowing the appeal, the inspector stated as follows:

“8. The GPDO sets out certain types of development that, amongst other things, dwelling houses can undertake without the need to apply for planning permission. This is not altogether unrestricted, as for example some types of permitted development may be excluded for properties within a conservation area, or within a National Park. Critically, the GPDO places no restrictions on permitted development rights in Green Belts. I find it reasonable to conclude that had it been the intention of Government to limit permitted development rights in the Green Belt, it would have done so. It therefore follows that the



permitted development rights for a dwelling in the Green Belt does not harm openness and is not disproportionate in the first instance.

10. In my view, the Framework and GPDO start with the presumption that a new dwelling in the Green Belt should be allowed to enjoy its permitted development rights. It is then for the decision maker to assess and explain why an individual class or classes within the relevant parts of the GPDO would harm openness in a specific case, necessary to justify the need for a restrictive condition. The Council's blanket ban approach on fear of what might happen is not an adequate assessment of the harm, is inconsistent with national policy and guidance, and accordingly is not a sufficient reason to remove permitted development rights.

11. Having regard to the character of the appeal site and the immediate surrounding area, I am not persuaded that this property even if extended as per its permitted development rights would harm or erode openness of the Green Belt. Furthermore, I am satisfied that the GPDO provides for sufficient safeguards to prevent over-development of a site. These include not allowing development from exceeding 50% of the total area of the curtilage (excluding the ground area of original dwelling house), and from extending beyond a wall forming the principal elevation of the original dwelling house."



- 5.8 At a fundamental level, it is clear that the inspector concluded that the inclusion of a condition removing permitted development rights would not be reasonable or necessary and that “...a *blanket ban approach on fear of what might happen is not an adequate assessment of the harm, is inconsistent with national policy and guidance, and accordingly is not a sufficient reason to remove permitted development rights.*”
- 5.9 Accordingly, it was held that the condition did not meet the tests in the PPG and planning permission was granted without complying with it.

Case 2: Appeal Ref. APP/H2265/W/20/3264915: Southfields, St Vincents Lane, Addington, West Malling, ME19 5BW (Appeal Decision attached as Appendix 2)

- 5.10 In allowing this appeal, the inspector agreed with the findings of the inspector in the above case that a condition removing permitted development rights would not be justified and that such did not meet the tests in the PPG.
- 5.11 The crucial aspects of the inspector’s decision are as follows:



“5. The Town and Country Planning (General Permitted Development)

(England) Order 2015 does not restrict permitted development rights relating to development within the curtilage of a dwellinghouse for Classes A-E in the Green Belt. Therefore, the small scale development that falls in these categories, including outbuildings, does not conflict with the purposes of the Green Belt or its essential characteristics of openness and permanence. Therefore, such developments do not need to be considered on a case by case basis.

6. Consequently, it is not necessary or reasonable to restrict the future use of permitted development rights in this case.”

- 5.12 Accordingly, it was held that the condition did not meet the tests in the PPG and planning permission was granted without complying with it.

Case 3: Appeal Ref. APP/Y3615/W/22/3290698: Pilgrim Gardens, Sandy Lane, Guildford, GU3 1HF (Appeal Decision attached as Appendix 3)

- 5.13 In allowing this appeal, the inspector agreed with the findings of the inspectors in the above two cases that a condition removing permitted development rights would not be justified and that such did not meet the tests in the PPG.



5.14 Key aspects of the inspector's reasoning as follows:

“5. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The national Planning Practice Guidance (PPG) [Paragraph: 017 Reference ID: 21a-017-20190723] adds that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.

6. The appeal site lies in an area of rural character, which forms part of the Metropolitan Green Belt, the Surrey Hills AONB and AGLV. It comprises a large detached dwellinghouse, garage and barn set within spacious grounds, but their visual prominence within the public realm is softened by mature vegetation sited in proximity to the site's boundaries.

7. Concerns have been raised by the Council regarding the effect that extensions constructed under Class A could have on the openness of the Green Belt. However, the GPDO does not limit the use of permitted development rights in Green Belts. Whilst some restrictions may have been considered reasonable and necessary at the time of the original application, I have been presented with limited information, other than the property's location within



the Green Belt, to substantiate the removal of permitted development rights afforded by Class A. The available evidence therefore provides no clear justification for such restrictions.

8. As set out in the GPDO, certain types of development are not permitted on article 2(3) land, which includes AONBs. Whilst the appeal property sits on high ground and lies within a sensitive location in the Surrey Hills AONB, the alterations and extensions which could be carried out under Class A would remain relatively limited. Having regard to the restrictions which already apply to article 2(3) land and the available evidence, I therefore find that there is also no clear justification for removing the use of permitted development rights afforded by Class A in that respect.”

- 5.15 As with the two appeal decisions previously discussed, the inspector reached the view that a condition removing permitted development rights is not justified simply on the basis that a site is located within a Green Belt and that such a condition would not meet the tests set out in the PPG.

Conditions

- 5.16 Were the application approved, it is considered that conditions could be cross-referred to the determinations of applications 24/01166/DOC



(materials), 24/01244/DOC (landscaping) and 24/01245/DOC (contaminated land).



Section 6: Summary & Conclusions

- 6.1 This statement supports an application to remove Condition 9 of planning permission ref. 23/00505/S73. The main issue in the determination of the appeal is the effect that the removal of Condition 9 of planning permission ref. 23/00505/S73 would have on the openness, purposes and visual amenities of the Green Belt.
- 6.2 The PPG sets out that *“Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity” and that: “Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.”*
- 6.3 As set out in the foregoing, the GPDO does not restrict permitted development rights relating to development within the curtilage of a dwellinghouse for Classes A-E in the Green Belt. Indeed, given that there are some restrictions to permitted development rights (within a national park or conservation area, for instance), it is reasonable to conclude that,



had it been the intention of the Government to limit permitted development rights in the Green Belt, it would have done so.

6.4 Accordingly, it is reasonable to conclude that small-scale development that falls within these categories (Classes A-E of the GPDO), including outbuildings, would not conflict with the purposes of the Green Belt or its essential characteristics. On this basis, it is not considered that a condition restricting permitted development rights is reasonable or necessary in the interests of the openness and visual amenities of the Green Belt. Such would not therefore meet the tests referred to in the PPG.

6.5 Moreover, this very matter has been determined in several appeal cases with some consistency to the approach taken by differing inspectors that a condition removing permitted development rights would not meet the tests set out in the PPG and is therefore not justified.

6.6 On this basis, we respectfully request that planning permission is granted without Condition 9 of planning permission ref. 23/00505/S73.



APPENDIX 1: Appeal Decision Letter Ref. APP/W0530/W/21/3272766



Appeal Decision

Site visit made on 18 November 2021

by R W Allen B.Sc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2021

Appeal Ref: APP/W0530/W/21/3272766

Church View, Newmarket Road, Stow-Cum-Quy, CB25 9AQ

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.

The appeal is made by Mr Flack against the decision of South Cambridgeshire District Council.

The application Ref 20/05393/S73, dated 30 December 2020, was refused by notice dated 18 March 2021.

The application sought planning permission for external alterations and conversion of offices to dwelling and part change of use of paddock land to garden land without complying with a condition attached to planning permission ref S/1929/13/FL, dated 21 November 2013.

The condition in dispute is No 7 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 with or without modification), no development within all classes of Part 1 of Schedule 2 of the Order and no development within Class A of Part 2 of Schedule 2 of the Order shall take place unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.

The reason given for the condition is: To safeguard the character of the area in accordance with Policy GB/1 of the adopted Local Development Framework 2007.

Decision

1. The appeal is allowed, and planning permission is granted for the development of land without complying with condition 7 (permitted development rights) of planning permission S/1929/13/FL (External Alterations and Conversion of Offices to Dwelling and Part Change of Use of Paddock Land to Garden Land) at Church View, Newmarket Road, Stow-Cum-Quy CB25 9AQ in accordance with the terms of the application, Ref 20/05393/S73, dated 30 December 2020.

Preliminary Matters

2. I note that the original Local Plan policy GB/1, on which Condition 7 was reasoned, has since been superseded by Local Plan¹ policy S/4. The secondary legislation cited in the condition has also been replaced by the 2015 GPDO². I shall determine the appeal on the updated policy and legislation accordingly.

¹ South Cambridgeshire Local Plan 2018

² Town and Country Planning (General Permitted Development) Order 2015 – Schedule 2, Part 1 and Class A of Part 2

Main Issue

3. The main issue is whether the condition in question is necessary to prevent inappropriate development in the Green Belt and from causing harm to its openness.

Reasons

4. The appeal property is a single-storey detached dwelling house within a reasonably-sized plot and is enclosed on all sides with fencing and gates. It sits at the end of a ribbon development of detached properties fronting what I observed to be the heavily used A1303 Newmarket Road, and is also a short distance from the intersection with the A14 dual carriageway.
5. The Council states that the building was once associated with the neighbouring dwelling and was previously in agricultural, followed by an office use. But, aside from a recessed front wall and large overhanging eaves, there are very little clues to suggest this building was anything other than a dwelling. This is because it appears to have been extensively renovated and extended such that it displays a conventional appearance including rendered walls and typically domestic fenestration arrangements. The property contains a large outbuilding to the rear. This is not an uncommon feature as many of the neighbouring dwellings also have various sized structures in the respective rear gardens.
6. In granting planning permission for this building to become a dwelling in 2013, the Council removed its permitted development rights as prescribed in Part 1, and Part 2 Class A of Schedule 2 of the GPDO. The Council states that, being within the Green Belt, future owner/occupiers would otherwise be able to carry out works which could double the scale of the dwelling. This, they say, would be disproportionate and harmful to the Green Belt in policy terms.
7. Protection of the Green Belt from urban sprawl and to keep land permanently open is defined in paragraph 137 of the Framework³. Paragraph 149 states that the construction of new buildings in the Green Belt should be regarded as inappropriate; but lists development that would amount to exceptions. Pertinent to this appeal is criterion c), which is for the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. The term "disproportionate" is not defined.
8. The GPDO sets out certain types of development that, amongst other things, dwelling houses can undertake without the need to apply for planning permission. This is not altogether unrestricted, as for example some types of permitted development may be excluded for properties within a conservation area, or within a National Park. Critically, the GPDO places no restrictions on permitted development rights in Green Belts. I find it reasonable to conclude that had it been the intention of Government to limit permitted development rights in the Green Belt, it would have done so. It therefore follows that the permitted development rights for a dwelling in the Green Belt does not harm openness and is not disproportionate in the first instance.
9. The Guidance⁴ gives a clear steer on the use of planning conditions in this way. It states that "conditions restricting the future use of the permitted

³ National Planning Policy Framework (July 2021)

⁴ Planning Practice Guidance – paragraph 017 Reference ID: 21a-017-20190723

development rights...may not pass the test of reasonableness or necessity...area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.”

10. In my view, the Framework and GPDO start with the presumption that a new dwelling in the Green Belt should be allowed to enjoy its permitted development rights. It is then for the decision maker to assess and explain why an individual class or classes within the relevant parts of the GPDO would harm openness in a specific case, necessary to justify the need for a restrictive condition. The Council’s blanket ban approach on fear of what might happen is not an adequate assessment of the harm, is inconsistent with national policy and guidance, and accordingly is not a sufficient reason to remove permitted development rights.
11. Having regard to the character of the appeal site and the immediate surrounding area, I am not persuaded that this property even if extended as per its permitted development rights would harm or erode openness of the Green Belt. Furthermore, I am satisfied that the GPDO provides for sufficient safeguards to prevent over-development of a site. These include not allowing development from exceeding 50% of the total area of the curtilage (excluding the ground area of original dwelling house), and from extending beyond a wall forming the principal elevation of the original dwelling house.
12. I therefore find that the removal of the said condition would not lead to disproportionate additions to the property, and it would not harm openness of the Green Belt. It would accord with Local Plan policy S/4 which seeks to protect the Cambridge Green Belt from inappropriate development in accordance with the Framework. It would also accord with the relevant parts of the Framework.

Other Matters

13. Section 66(1) of the 1990 Act⁵ requires special regard should be given to the desirability of preserving the setting of listed buildings. This means that considerable weight and importance must be given to any harm caused to the designated heritage assets in the planning balance, and this includes any harm to the setting of listed buildings.
14. St Mary’s parish church lies to the west of the appeal property. The building is Grade II* listed, with the listing description stating that the oldest parts of the church date from the 12th Century. Its significance is derived from its architectural and historic interest, with setting strongly contributing to the significance owing to its surroundings within its own grounds, and viewpoints in which the building can be experienced. I observed the building to be both charming and attractive.
15. The Council has not raised an objection over concerns over the effect of the removal of condition 7 in this regard. I am satisfied that the distance between the church and the appeal property is sufficient that any additions to the property undertaken under permitted development rights would not undermine or cause harm to the significance of the heritage asset. For these reasons,

⁵ The Planning (Listed Building and Conservation Areas) Act 1990

there is no need for me to engage the balancing exercise within paragraph 202 of the Framework and I have discharged my statutory duty in this regard.

Conditions

16. The previous permission was subject to seven planning conditions. The conditions, excluding the appeal condition, relate to the carrying out of the development in accordance with the approved plans; the submission of materials and boundary treatments; and for the submission of hard and soft landscaping. The Council has made no submissions on whether any of these conditions, either in part or in full, are necessary to be reimposed here. Because they relate predominately to pre-construction submissions and where any time limitations have long passed, I find that none need to be reimposed to this decision.

Conclusion

asons given above, I conclude that the appeal is allowed.

INSPECTOR



APPENDIX 2: Appeal Decision Letter Ref. APP/H2265/W/20/3264915



Appeal Decision

Site visit made on 12 May 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2021

Appeal Ref: APP/H2265/W/20/3264915

Southfields, St Vincents Lane, Addington, West Malling ME19 5BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs M Cox against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/20/02069/FL, dated 02 October 2020, was refused by notice dated 30 November 2020.
 - The application sought planning permission for basement to replacement dwelling approved under planning permission ref. TM/06/01606/FL without complying with a condition attached to planning permission Ref TM/06/02896/FL, dated 25 October 2006.
 - The condition in dispute is No 4 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C, D and E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto
 - The reason given for the condition is: To enable the Local Planning Authority to regulate and control any such further development in the interests of Green Belt policy.
-

Decision

1. The appeal is allowed and planning permission is granted for basement to replacement dwelling approved under planning permission ref. TM/06/01606/FL at Southfields, St Vincents Lane, Addington, West Malling ME19 5BW in accordance with the application Ref TM/20/02069/FL dated 02 October 2020, without compliance with condition numbers 1, 2, 4, 6, 7 and 8 previously imposed on planning permission Ref TM/06/02896/FL dated 25 October 2006 and subject to the following conditions:
 - 1) The area shown on the submitted layout under application TM/06/02896/FL as vehicle parking space shall be kept available for such use at all times and no permanent development whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.
 - 2) The storage and screening of refuse shall be retained at all times.

Main Issue

2. The main issue in this appeal is the effect of the removal of the condition on the openness and visual amenities of the Green Belt.

Reasons

3. Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.
4. The Local Planning Authority has determined that the existing dwelling is not inappropriate in the Green Belt. It was granted permission on the basis that it would not be materially larger than the original dwelling and its outbuildings combined. Such an arrangement is typical of the exception set out in paragraph 145 d) of the National Planning Policy Framework February 2019 (the Framework). This applies whether or not any outbuildings to be replaced were constructed under permitted development rights.
5. The Town and Country Planning (General Permitted Development) (England) Order 2015 does not restrict permitted development rights relating to development within the curtilage of a dwellinghouse for Classes A-E in the Green Belt. Therefore, the small scale development that falls in these categories, including outbuildings, does not conflict with the purposes of the Green Belt or its essential characteristics of openness and permanence. Therefore, such developments do not need to be considered on a case by case basis.
6. Consequently, it is not necessary or reasonable to restrict the future use of permitted development rights in this case.
7. The appellant requests the condition be amended to remove the reference to Class E rights. However, it can be seen above that the restriction of Class A, B, C, D and E rights would not pass the tests. Consequently, the Council's original condition 4 should be removed in its entirety.
8. Therefore, a condition restricting permitted development rights is not reasonable or necessary in the interests of the openness and visual amenities of the Green Belt. Consequently, in this respect, its removal would be in accordance with Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy 25 September 2007 and paragraphs 143 and 145 of the Framework. These set out that inappropriate development in the Green Belt should not be approved except in very special circumstances and set out a list of exceptions to development that is inappropriate.

Conditions

9. I have considered the conditions attached to the original permission against the tests in the Framework and the advice in the PPG. I have made such amendments as necessary to comply with those documents.
10. The replacement dwelling has been constructed. Therefore, I have removed the time limit for commencement. I have amended conditions requiring the submission and implementation of details of car parking and refuse stores to refer to the retention of these details only. I have also removed the requirement to demolish the outbuildings, and for materials to be in accordance with the plans as these have taken place.
11. Planning application TM/06/01606/FL was granted in July 2006 with a time limit of commencement within 3 years. As this time limit has now lapsed, the

works could not commence. As such the Council's original condition 8 is not necessary and is not attached here.

Reasons

12. For the reasons given above I conclude that the appeal should be allowed.

H Miles

INSPECTOR



APPENDIX 3: Appeal Decision Letter Ref. APP/Y3615/W/22/3290698



Appeal Decision

Site visit made on 4 July 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2022

Appeal Ref: APP/Y3615/W/22/3290698

Pilgrim Gardens, Sandy Lane, Guildford GU3 1HF

- 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 A Farquhar against the decision of Guildford Borough Council.
 - The application Ref 21/P/02017, dated 17 September 2021, was approved on 15 December 2021 and planning permission was granted subject to conditions.
 - The development permitted is "Removal of condition 8 (removal of permitted development rights) of planning application 96/P/0063 approved 28/05/1996 to reinstate permitted development rights".
 - 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 or amending those Orders with or without modification), no development within Part 1, Class A shall be carried out on the dwellinghouse(s) hereby permitted or within their curtilage".
 - The reason given for the condition is: "In order to safeguard the Green Belt, Surrey Hills Area of Outstanding Natural Beauty and Area of Great Landscape Value".
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Decision

1. The appeal is allowed, and the planning permission Ref 21/P/02017 for "Removal of condition 8 (removal of permitted development rights) of planning application 96/P/0063 approved 28/05/1996 to reinstate permitted development rights" at Pilgrim Gardens, Sandy Lane, Guildford GU3 1HF, granted on 15 December 2021 by Guildford Borough Council, is **varied** by deleting condition No 4.

Background and Main Issue

2. Planning permission was granted in 1996 for the demolition of an existing dwelling, shed and glasshouse, and construction of a replacement house with detached garage and enclosed swimming pool. The Council subsequently approved a Section 73 application seeking the removal of a condition restricting the use of permitted development rights afforded by Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order).
3. This decision was however subject to new conditions, including one removing permitted development rights for alterations and extensions to the dwellinghouse. The appellant is contesting the imposition of this condition on the grounds that it does not meet the six tests as set out in paragraph 56 of the National Planning Policy Framework (the Framework).
4. The main issue is whether the disputed condition is reasonable and necessary, having particular regard to the openness and purposes of the Green Belt and

the character and appearance of the area, including the Surrey Hills Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV).

Reasons

5. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The national Planning Practice Guidance (PPG) [Paragraph: 017 Reference ID: 21a-017-20190723] adds that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.
6. The appeal site lies in an area of rural character, which forms part of the Metropolitan Green Belt, the Surrey Hills AONB and AGLV. It comprises a large detached dwellinghouse, garage and barn set within spacious grounds, but their visual prominence within the public realm is softened by mature vegetation sited in proximity to the site's boundaries.
7. Concerns have been raised by the Council regarding the effect that extensions constructed under Class A could have on the openness of the Green Belt. However, the GPDO does not limit the use of permitted development rights in Green Belts. Whilst some restrictions may have been considered reasonable and necessary at the time of the original application, I have been presented with limited information, other than the property's location within the Green Belt, to substantiate the removal of permitted development rights afforded by Class A. The available evidence therefore provides no clear justification for such restrictions.
8. As set out in the GPDO, certain types of development are not permitted on article 2(3) land, which includes AONBs. Whilst the appeal property sits on high ground and lies within a sensitive location in the Surrey Hills AONB, the alterations and extensions which could be carried out under Class A would remain relatively limited. Having regard to the restrictions which already apply to article 2(3) land and the available evidence, I therefore find that there is also no clear justification for removing the use of permitted development rights afforded by Class A in that respect.
9. For the foregoing reasons, I conclude that condition No 4 is neither reasonable nor necessary to protect the openness and the purposes of the Green Belt, but also to conserve and enhance the landscape and scenic beauty of the Surrey Hills AONB and AGLV.

Conclusion

10. Given the above, I conclude that the planning permission should be varied as set out in the formal decision.

S Edwards

INSPECTOR