

DLA1



Appeal Decision

Site visit made on 29 September 2020

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Appeal Ref: APP/A3655/W/20/3250617

Wentworth House, Rough Road, Brookwood, Woking, GU22 0RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for 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 Alan Birch against Woking Borough Council.
 - The application Ref PLAN/2019/1211 is dated 9 December 2019.
 - The application sought planning permission for Erection of a replacement dwelling without complying with a condition attached to planning permission Ref PLAN/2002/0698, dated 1 October 2002.
 - The condition in dispute is No 5 which states that: Notwithstanding the provisions of Article 3 and Schedule 2, Part 1 and Classes A to E of The Town and Country Planning (General Permitted Development) Order 1995 (or any order amending or re-enacting that Order with or without modification, no further extensions or additions to the dwelling, or the provision of any additional building within its curtilage, shall be constructed without the prior written permission of the Local Planning Authority.
 - The reason given for the condition is: To ensure that a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a replacement dwelling at Wentworth House, Rough Road, Brookwood, Woking, GU22 0RB in accordance with the application Ref PLAN/2019/1211 dated 9 December 2019, without compliance with condition number 5 previously imposed on planning permission Ref PLAN/2002/0698 dated 1 October 2002 and subject to the conditions set out in the attached schedule.

Procedural Matters

2. An application for costs was made by Mr Alan Birch against Woking Borough Council. This application is the subject of a separate Decision.
3. The Council's original decision notice refers to the appeal site by its previous name Maryland Wood Cottage, Rough Road, Brookwood, Woking, Surrey. The address provided on the appeal and application forms refers to Wentworth House. For the purposes of this appeal I have used the updated property name.

Background and Main Issue

4. The appeal site is a two-storey detached dwelling set in a large plot off Rough Road, Brookwood. The property is centrally located within its plot, the

boundaries of which are defined by mature hedging and trees. There is also a swimming pool within the garden of the property. The surrounding area is characterised by dwellings that are also located in generally large, spacious plots. The site lies within the Green Belt.

5. Planning permission ref. PLAN/2002/0698 was granted in 2002 for a replacement dwelling on the site subject to conditions. The permission has been implemented and the original dwelling removed from the site. Condition 5 of the permission removed permitted development rights in relation to enlargements, improvements or other alteration to the dwellinghouse, including alterations to its roof, porches and incidental outbuildings within its curtilage which fall under Classes A to E of Schedule 2, Part 1, of the Town and Country Planning (General Permitted Development) Order 1995¹ (as amended) (GPDO).
6. The reason for imposing the condition was *'to ensure a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties'*.
7. The Council failed to give notice within the prescribed period of a decision to remove the condition. However, a subsequent delegation report confirms that the Council would have refused the application had the appeal not been lodged on the basis that the site lies within the Green Belt where strict control is required over any additional development that may be proposed.
8. The appellant contends that the imposition of the condition fails to meet the relevant tests for conditions set out in the National Planning Framework (the Framework).
9. Taking into account the above, I consider the main issue is whether the condition is necessary and reasonable in the interests of the living conditions of the occupiers of adjoining properties and in maintaining the openness of the Green Belt.

Reasons

10. Paragraph 53 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 Planning Practice Guidance (PPG) states that restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.

Living conditions

11. The original reason for imposing the condition was to ensure a satisfactory form of development takes place and to protect the amenities of occupiers of adjoining properties. The dwelling is centrally located within a large plot and is set a generous distance in from the boundaries of the site which are well screened by hedging and trees. The neighbouring properties are similarly located within large, spacious plots and I therefore find in this case no justification for the removal of permitted development rights for development otherwise permitted under Classes A-E of the GPDO, in terms of the protecting the living conditions of the occupiers of adjoining properties. The condition is therefore unreasonable and unnecessary in this regard.

¹ This has been superseded by the Town and Country Planning (General Permitted Development) (England) (Order 2015 (as amended) (GPDO).

Green Belt

12. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence (paragraph 133 of the Framework). Paragraph 145 of the Framework subsequently sets out that the construction of new buildings within the Green Belt is inappropriate development with a number of exceptions listed. One such exception is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
13. The Council state that the approved house, with an increase of 62% over the original building on the site, is at the upper end of what was permissible at the time as a proportionate addition. It is not clear whether the figure of 62% relates to floor space or volume. In any event, it appears from the above comment that the replacement dwelling was considered policy compliant at the time.
14. I note that the Council state that such an increase may not now be granted under current Policy CS6 of the Woking Core Strategy (2012) and Policy DM13 of the Development Management Policies Development Plan Document (2016). I also note that the Council have subsequently granted planning permission for further extensions and alterations to the dwelling.
15. I acknowledge the Council's desire to seek to control future development on what is a relatively large site in the Green Belt in a manner that reflects the Green Belt's importance. It is however, also important to note that the deemed grant of planning permission under the terms of the GPDO does not explicitly exclude development within the Green Belt. Furthermore, there is no requirement in its terms to subject any proposed development to the tests of inappropriateness or openness. In the absence of any case specific evidence to suggest that the 2002 replacement dwelling would not have been supported without removal of some of the GPDO rights, the necessary justification required to remove those rights, did not and does not exist to make it acceptable in planning terms. Such an approach fails to comply with the current policy as set out in paragraph 53 of the Framework.
16. I therefore conclude that the required justification for the removal of the permitted development rights does not exist and therefore the condition is unreasonable and unnecessary. It therefore fails the tests as set out in Paragraph 55 of the Framework.

Conditions

17. The guidance in the PPG makes it clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, 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. I have not however, imposed the standard time limit as the development has been commenced. I have renumbered the conditions accordingly.

Conclusion

18. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

J Davis

INSPECTOR

Schedule of Conditions

1. The materials to be used in the external elevations of the development hereby approved shall be as follows:
 - i) Roofing – plain tiles
 - ii) Cladding – render and colour washedDevelopment shall be carried out in accordance with the approved details.
2. No development shall take place until details and/or samples of all surfacing materials, including those to all access driveways / forecourts etc. have been submitted to and approved in writing by the Local Planning Authority.
3. The garage shall only be used for the parking of vehicles ancillary and incidental to the residential use of the dwelling house and shall be retained thereafter solely for that purpose and made available to the occupiers of the property at all times for parking purposes unless the Local Planning Authority otherwise first agrees in writing.
4. Prior to the commencement of any development hereby approved and before any equipment, machinery or materials are brought onto the site for the purposes of the development hereby approved, details of the specification and position of the fencing for the protection of any retained tree shall be submitted to and approved in writing by the Local Planning Authority. The works carried out as approved and the fencing shall be maintained until the development has been completed and all equipment, machinery and surplus materials have been removed from the site.
5. There shall be nothing stored or placed within any protective fencing during the construction period erected around each tree or group of trees to be retained.
6. There shall be no alteration in ground level within any protective fencing erected around each tree or group of trees to be retained nor shall any excavation be made without the written consent of the Local Planning Authority.
7. There shall be no burning within 6 metres of the canopy of any tree or group of trees to be retained.

8. No development shall take place until full details of the “soft” landscape works have been submitted to and approved by the Local Planning Authority. These details shall include planting plans, written specifications, schedules of plants and trees, noting species, plant sizes and proposed numbers and densities of planting. The works shall be carried out as approved and completed during the first planting season following the substantial completion of the development hereby approved.
9. The existing tree/hedge screen situated on the site boundaries of the site surrounding the development hereby permitted shall be retained at all times and should any part die or be damaged during the course of development, replacement planting shall be undertaken before the end of the current or next planting season in accordance with the details to be submitted to and agreed in writing by the Local Planning Authority.
10. Notwithstanding any indication on the drawings hereby approved, prior to the commencement of development, details of any proposed gates at the access(es) to the site shall be submitted to the Local Planning Authority for approval in writing. Such details as may be agreed shall be implemented prior to the first occupation of the development and retained in perpetuity unless the written permission of the Local Planning Authority is first sought.
11. Notwithstanding any indication on the drawings hereby approved, the swimming pool structure and ancillary building shall be demolished prior to the first occupation of the replacement dwelling hereby granted permission.
12. Prior to the commencement of the development hereby approved, all existing buildings at the site shall be demolished.



Costs Decision

Site visit made on 29 September 2020

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Costs application in relation to Appeal Ref: APP/A3655/W/20/3250617
Wentworth House, Rough Road, Brookwood, Woking, GU22 0RB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Alan Birch for a full ward of costs against Woking Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for grant subject to conditions of planning permission for the erection of a replacement dwelling.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant claims that the Council has acted unreasonably on two grounds which I summarise as:
 - refusing to communicate with the applicant and failing to provide a reason for not reaching a decision within the relevant time period resulted in the applicant having no option but to appeal;
 - imposing a condition which does not meet the tests set out in national policy, including the policy that applied at the time the condition was imposed (Circular 11/95).
4. The applicant states that various unsuccessful attempts were made to communicate with the Council at the application stage. Planning Policy Guidance (PPG) states that the local planning authority may be at risk of costs if there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether. Whilst I agree that the applicant must have found the Council's lack of communication frustrating, I have no evidence before me to suggest that better communication with the applicant would have resulted in the Council approving the application and thus avoiding the need for the appeal and the expense associated with it. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

5. In the main decision I have concluded that the condition removing permitted development rights for development falling within Classes A to E of Schedule 2, Part 1, of the Town and Country Planning (General Permitted Development) Order 1995¹ (as amended) (GPDO) was unreasonable and unnecessary. I agree that the imposition of the condition would not have complied with the relevant tests which at the time, were set out in Circular 11/95. However, the decision made in 2002 was prior to the more detailed policy guidance set out in the National Planning Policy Framework and National Planning Policy Guidance. Therefore, the Council did not act unreasonably in this regard.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for costs should be refused.

J Davis

INSPECTOR

¹ This has been superseded by the Town and Country Planning (General Permitted Development) (England) (Order 2015 (as amended) (GPDO).

DLA2



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.*
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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

17. For the reasons given above, I conclude that the appeal is allowed.

R W Allen

INSPECTOR

DLA3



Appeal Decision

Site visit made on 7 December 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/M1595/W/21/3288105

River View, Kirkham Road, Horndon on the Hill, SS17 8QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for 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 Martin Leyland against Thurrock Borough Council.
 - The application Ref 21/01469/CV is dated 24 August 2021 .
 - The application sought planning permission for one for one dwelling and detached garage without complying with a condition attached to planning permission Ref THY/697/93, dated 7 January 1994.
 - The condition in dispute is No 10 which states that: "Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, no development included in Schedule 2, Part 1, Classes A, B, C, D, E, F, G and H, shall take place without the grant of an additional planning permission by the Local Planning Authority."
 - The reason given for the condition is: "To determine the scope of this permission in view of the site's location within the Metropolitan Green Belt and the Local Planning Authority's policies relating thereto."
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Decision

1. The appeal is allowed and planning permission is granted for one for one dwelling and detached garage at River View, Kirkham Road, Horndon on the Hill, SS17 8QE in accordance with the terms of the application, Ref 21/01469/CV, dated 24 August 2021.

Main Issue

2. The main issue is whether Condition 10 is reasonable and necessary.

Reasons

3. The appeal property is a replacement dwelling following the grant of permission in 1994. It is within the Green Belt. The National Planning Policy Framework indicates that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. The Council has provided no explanation as to why it is reasonable and necessary to remove all permitted development rights for the enlargement, improvement or other alteration of the dwellinghouse.
4. Permitted development is not restricted in the Green Belt as it is for some designated areas. There is therefore no overarching justification for retaining the condition. Policy PMD6 of the Core Strategy and Policies for Development Management makes no mention of removing permitted development rights for replacement dwellings in the Green Belt. Furthermore, no detail has been

given about the planning history of the site that might have formed the basis of the original condition. The reason given for it is generic. As River View has a large plot and is well separated from neighbouring houses, there are no site specific reasons to prevent permitted development rights from being exercised.

5. The Planning Practice Guidance (PPG) on *Use of Planning Conditions* warns that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity. This is one such case and there is no reason to keep the condition. This would not exempt the appellant or any future owner or occupier from applying for planning permission if that were necessary. Allowing the appeal would simply put River View on the same footing as other houses in the vicinity.

Conditions

6. The PPG indicates that when granting permission under section 73, decisions should restate the conditions imposed on earlier permissions that continue to have effect. The majority of the original conditions related to the construction of the dwelling and are therefore now superfluous.
7. Of the others, Condition 3 imposes controls over all existing trees, shrubs and hedges. However, this is not justified by the quality of the domestic planting within the site or its contribution to the character of the area. Limiting use of the garage to the parking of cars as it is within the Green Belt is unreasonable (Condition 5) and there is ample space for vehicles. Condition 6 precludes windows in the garage roof to prevent conversion to living accommodation but it is unclear how this would be contrary to Green Belt policies.
8. Therefore there is no need to attach any conditions to the new permission that will be granted.

Conclusion

9. The condition in dispute is not reasonable or necessary and should be removed. Therefore, for the reasons given above, the appeal should succeed.

David Smith

INSPECTOR

DLA4



Appeal Decision

Site visit made on 17 December 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2020

Appeal Ref: APP/N0410/W/19/3238059

Rosebrook, Ashmead Lane, Denham, Buckinghamshire UB9 5BB

- 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 Paul Innes against the decision of South Bucks District Council.
 - The application Ref PL/19/0550/FA, dated 19 February 2019, was approved on 17 April 2019 and planning permission was granted subject to conditions.
 - The development permitted is two storey rear extension, extension to front dormer and alterations to fenestration.
 - The condition in dispute is No 5 which states that: Notwithstanding the provisions of Article 3 and Classes A, B & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration (including the erection of a garage, stable, loosebox or coach-house within the curtilage) of or to Rosebrook dwellinghouse the subject of this permission, shall be carried out nor shall any building or enclosure required for a purpose incidental to the enjoyment of any said dwellinghouse as such be constructed or placed on any part of the land covered by this permission. (SD14A).
 - The reason given for the condition is: The site is located within the Metropolitan Green Belt where strict control over development is necessary in order to maintain the openness of the Green Belt. (Policy GB1 of the South Bucks District Local Plan (adopted March 1999) refers.)
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Decision

1. The appeal is allowed and the planning permission Ref PL/19/0550/FA for two storey rear extension, extension to front dormer and alterations to fenestration at Rosebrook, Ashmead Lane, Denham, Buckinghamshire UB9 5BB granted on 17 April 2019 by South Bucks District Council, is varied by deleting condition No 5.

Procedural Matters

2. The description of development in the header and decision above is taken from the Council's decision notice and is different to that set out on the application and appeal forms. I have used this description to be consistent with the planning permission which is the subject of the appeal. On my site visit I saw that the extensions have been largely completed.

Main Issue

3. The Council indicate the disputed condition is necessary to avoid disproportionate levels of built form that would be detrimental to the openness

of the Green Belt. As such, the main issue is whether the disputed condition is reasonable or necessary having regard to Green Belt policy.

Reasons

4. Whilst stating that new buildings are inappropriate development in the Green Belt, paragraph 145 of the National Planning Policy Framework (the Framework) also defines the extension of a building as being not inappropriate, provided it does not result in disproportionate additions over and above the size of the original. Policies GB1 and GB10 of the South Bucks District Local Plan 1999 (LP) are generally consistent with the Framework in this regard.
5. The Council officer's report on the planning application states the appeal scheme represents a cumulative increase of 52.7% in floorspace. It is recognised that this is more than the 50% figure referred to in the explanation to LP Policy GB10, but as the appeal site lies in a Green Belt settlement the proposed extensions are deemed acceptable under Green Belt policy. The Council's appeal statement provides a different floor space increase figure of 34% but confirms that this is not a disproportionate increase. I agree with the Council that the extensions are not disproportionate additions and so are not inappropriate development in the Green Belt.
6. The Council is concerned permitted development rights would allow further enlargement of Rosebrook that may lead to a loss of openness of the Green Belt. Such a concern relates to the effect of development allowed under permitted development rights rather than to the extensions subject of this appeal. The development approved by the Council is acceptable when assessed against national and local Green Belt planning policies and there is no policy that supports the removal of permitted development rights in these circumstances. Consequently, the condition is not reasonable or necessary to make the appeal scheme acceptable and so it fails to meet all the tests set out at paragraph 55 of the Framework. Also, as no compelling justification for the condition is provided, it is contrary to paragraph 53 of the Framework which is against the restriction of permitted development rights without clear reason.
7. The Council refer to an Inspector's appeal decision¹ that allows an extension subject to a condition removing permitted development rights. However, in that case, the proposal was inappropriate development in the Green Belt and the appellant was willing to forego permitted development rights in order to justify a departure from Green Belt policy. The circumstances are different to this appeal where the extensions are not inappropriate development in the Green Belt and so the other appeal does not affect my view on the main issue.

Conclusion

8. For the above reasons, I conclude the disputed condition is not reasonable or necessary having regard to Green Belt policy. As such, the appeal should succeed and I will vary the planning permission by deleting the disputed condition.

Jonathan Edwards

INSPECTOR

¹ Appeal ref no APP/N0410/D/17/3188866

DLA5



Appeal Decision

Site visit made on 29 February 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

Appeal Ref: APP/N0410/W/23/3324265

**Longbridge Nurseries, Cherry Tree Lane, Iver Heath, Iver,
Buckinghamshire SLO 0EE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Shyam Bajaj against the decision of Buckinghamshire Council.
 - The application Ref is PL/23/0988/VRC.
 - The application sought planning permission for the 'demolition of outbuildings and workshops/storage building and conversion of garage/office with single storey extension creating detached bungalow' without complying with a condition attached to planning permission Ref APP/N0410/05/1174686, dated 13 January 2005.
 - The condition in dispute is No 6 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no enlargement, improvement or other alteration shall be erected within the curtilage of the dwelling house without the prior express permission of the Local Planning Authority.*
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Decision

1. The appeal is allowed and planning permission is granted for the 'demolition of outbuildings and workshops/storage building and conversion of garage/office with single storey extension creating detached bungalow' at Longbridge Nurseries, Cherry Tree Lane, Iver Heath, Iver, Buckinghamshire SLO 0EE in accordance with the application Ref PL/23/0988/VRC dated 21 March 2023, without compliance with condition number 6 previously imposed on planning permission Ref APP/N0410/05/1174686 dated 13 January 2005 and subject to the conditions appended to this decision.

Background and Preliminary Matters

2. The planning permission granted for the dwelling outlined above, has been implemented. The dispute in respect of condition 6 is limited to whether permitted development rights should apply, largely for extensions and alterations to the appeal dwelling and other alterations within the site.
3. Since the appeal was lodged, a revised version of the National Planning Policy Framework was published (19 December 2023). This does not materially change the planning policy context in respect of the main issue.

Main Issue

4. The main issue is the effect of the removal of condition 6 on the openness of the Green Belt.

Reasons

5. The National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so¹. The Planning Practice Guidance (PPG) also advises that conditions of this nature may not pass the test of reasonableness or necessity².
6. The appeal site comprises a single-storey detached dwelling, set within a large garden plot. The front of the property is visible from Cherry Tree Lane, a narrow cul-de-sac used to access several other properties. Those established properties vary in scale and period and some have been altered through extension or the erection of outbuildings within plots.
7. The permitted development rights which have been removed would, in the main, allow extensions to the original property and alterations to the site. In my view, any extensions or alterations carried out under permitted development rights are likely to be relatively minor. There is no substantive evidence before me to indicate that in exercising permitted development rights, further extensions would result in disproportionate additions over and above the size of the original building, which would subsequently lead to a loss of openness within the Green Belt. The original appeal decision does not set out a reason or justification for the condition, and pre-dates the Framework.
8. In any event, the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended) places no restrictions on permitted development rights in Green Belts. As such, the same permitted development rights typically apply to dwellings within the Green Belt as those which are not. Paragraphs 152-154 of the Framework, relating to the Green Belt, are only applicable to development that requires planning permission, as is the need to demonstrate very special circumstances.
9. The Council sets out that any additional built form could reduce openness and would therefore result in a development which would be inappropriate. However, there is no substantive evidence before me to indicate that this would be the case. In any event, I am not of the view that minor extensions to the dwelling would have such an effect on the openness of the Green Belt or its purposes to justify the removal of permitted development rights.
10. For the reasons given above, I conclude that the removal of condition 6 would not harm the openness of the Green Belt and there is no clear justification for the removal of permitted development rights. Accordingly, the relevant tests in the Framework and the PPG have not been met in this case and the condition is not reasonable or necessary.
11. Consequently, the removal of condition 6 would be in accordance with the relevant provisions of Policy GB1 of the South Bucks District Local Plan (1999) and paragraphs 152-154 of the Framework. These, in summary, seek to protect the open character of the Green Belt and restrict inappropriate development.

¹ Paragraph 54

² Paragraph: 017 Reference ID: 21a-017-20190723

Other Matters

12. I note the representations received from several neighbours to the site. Matters include concerns relating to the loss of rural character and openness, the loss of trees and overlooking. I have dealt with matters relating to openness above. The loss of trees and the alleged loss of privacy are both based on hypothetical eventualities. There is no evidence before me under this appeal to demonstrate that harm would arise in those respects.
13. The letters of support are noted but have not had any bearing on my conclusions above.

Conditions

14. Conditions 1, 2, 3, 5, 7, 8, 9 and 10 either relate to pre-commencement or pre-occupation matters or to matters which are relevant only until 5 years after the completion of the development. Accordingly, these conditions are no longer necessary or relevant and have not been re-imposed.
15. The originally imposed condition 4 relates to the garage and parking space, and sets out that these should be retained. This condition remains relevant and necessary and has been re-imposed.

Conclusion

16. I conclude that the disputed condition is not reasonable or necessary in the interests of the surrounding area, with particular regard to the openness of the Green Belt. I therefore conclude that the appeal should be allowed.

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The garage hereby permitted and the adjacent car parking space (noted as a car port on the submitted plan) shall not be used other than for the parking of private motor vehicles or purposes incidental to the enjoyment of the occupiers of the dwelling house, and shall not be used for any business purposes without the prior express permission of the Local Planning Authority.

DLA6



Appeal Decision

Site visit made on 12 February 2025

by **K E Down MA(Oxon) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/B1930/D/24/3350286

The Farmhouse, Round House Farm, Roestock Lane, Colney Heath, St Albans, AL4 0PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr R Franklin Smith against the decision of St Albans City & District Council.
 - The application Ref is 5/24/0636.
 - The development proposed is a single storey side extension and two storey rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a single storey side extension and two storey rear extension at The Farmhouse, Round House Farm, Roestock Lane, Colney Heath, St Albans, AL4 0PP in accordance with the terms of the application, Ref 5/24/0636, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 200, 206 rev D, 201 rev C, 207 rev G.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. There is one main issue which is whether the proposed development would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (NPPF), 2024, and any relevant development plan policies.

Reasons

3. The appeal dwelling is a large, detached, traditional, double fronted former farm house on a generous plot. It is located in a semi-rural location on a private road which also provides access to a group of modern dwellings, two further dwellings and a large agricultural style building. The private road is a Public Restricted Byway and continues into open countryside as an unmade track beyond the appeal site. The site lies within the Green Belt.
4. The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that

inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. For extensions and alterations to buildings, these should not result in disproportionate additions over and above the size of the original building. "Original building" is defined in the NPPF as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as originally built. The appeal dwelling has been extended in the past. However, it is agreed between the parties that these additions pre-date 1 July 1948. Therefore, for the purposes of assessment against Green Belt policy the existing building is also the original building.

5. Policies 1 and 13 of the City and District of St Albans District Local Plan Review (LP), adopted 1994, taken together are broadly consistent with the NPPF insofar as they seek to apply national Green Belt policy to protect the openness and character of the Green Belt. The limited extension of existing dwellings is supported provided it is modest in scale so as not to create a significantly larger building, visually well integrated with the rural surroundings, has no significant impact on the character and appearance of the countryside and does not harm the ecology, natural beauty or amenity of the countryside. The Council's Supplementary Planning Guidance: Residential extensions and replacement dwellings in the Green Belt (SPG), 2004, provides guidance on what may represent disproportionate additions.
6. The parties agree that the floor area of the original building is some 280m². Using the Council's figures, the proposed extensions would add about 100m² to this and would increase the volume by some 374 m³. The resultant building would thus be some 35% greater in floor area than the original dwelling. The appellant's floor area figures are smaller than the Council's calculations, but it is unclear how they have been reached. I shall therefore use the Council's figures which appear realistic.
7. The SPG provides guidelines on size ranges for extensions which might be acceptable of between 20% and 40% increase in floor area and up to 300m³ in volume. The SPG makes clear that these are not rigid limits and the Council's main concern is to ensure that other criteria in the SPG are complied with. Moreover, the guidelines were established to take account of Permitted Development (PD) rights limits which applied at the time but which have since been removed. In general, larger extensions are now permitted as PD and therefore the Council's guidance should be applied flexibly.
8. The Council's SPG sets out seven further criteria against which extensions should be judged. The performance of the extensions against these then provides a guide as to what scale of extensions, within the range set, may be considered not to be disproportionate. I shall consider these in turn.
9. Firstly, under criterion (ii) it is agreed that the dwelling is "original" for Green Belt purposes. It therefore performs very well against this criterion. Secondly, the type of extensions are considered. Rear and single storey side extensions are generally viewed more favourably in the SPG, provided side extensions do not close important gaps. The single storey orangery would be a side extension but would face onto the large garden. The rear extension would be partly over existing single storey elements but would also infill an open L-shaped area at two storeys. The roof would be enlarged but would integrate well with the existing roof form. Overall, the extensions would appear well proportioned in the context of the original house, which would retain its character as a single dwelling, and well integrated into the

semi-rural area. Contrary to the Council's view, I therefore find that the proposed development would perform well against this criterion.

10. In terms of visibility from public viewpoints, there would be limited views of the rear extension, at a distance from Roestock Lane and some views from the private road/track. However, in none of these would the extension dominate or appear disproportionate. The single storey orangery would be visible from the track beyond the private road but the view would be partly obscured by dense boundary hedging and would have a negligible effect on public views. Moreover, no gaps between dwellings would be materially closed. Overall, the proposed extensions would therefore perform moderately to well against criteria (iv) and (v).
11. Turning to the other SPG criteria, I agree with the Council that there would be no conflict with LP Policies 69 or 72 which are design policies that apply to all extensions. Further, since no landscaping or trees would be affected and the site is neither a listed building nor within a Conservation Area the proposed extensions would have no adverse effect on these. They would therefore perform very well against the criteria.
12. Taking account of the SPG criteria as a whole, the proposed extensions perform well to very well. This would indicate that figures at or above the top of the range should be considered. The proposed extensions would add about 35% to the floorspace which would fall within the 20%-40% range. Although the increase in volume would be above the 300m³ maximum set out in the SPG, allowing that this should be applied flexibly owing to the reasoning behind the limits set and the age of the SPG, I consider that the increase would not be excessive. Overall, the extensions would be moderate in scale in the context of the original dwelling. Moreover, they would appear visually sympathetic. I therefore find that the proposed extensions would be modest in size and would not result in disproportionate additions to the original building.
13. It is concluded on the main issue that the proposed development would not amount to inappropriate development in the Green Belt. Accordingly, the proposed development would comply with LP Policies 1 and 13 and with national policy set out in the NPPF, 2024. The Council also refers to LP Policies 69 and 72 in its refusal notice. However, it is clear from the delegated report that no conflict with these policies is found. I agree with this view.
14. The courts have found that where development is not inappropriate it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. I do not therefore need to consider the effect on openness. Neither is it necessary to consider whether very special circumstances exist, and the appeal should be allowed.
15. Turning to conditions, I agree with the Council that in addition to the statutory commencement condition, the development should be carried out in accordance with the approved plans and in materials that match the existing building. The Council also suggests a condition withdrawing permitted development rights for extensions and outbuildings. The reason given is in the interests of visual amenity and the openness of the Green Belt. However, limits on permitted development rights exist in order to protect visual amenity and the Government has not considered the general withdrawal of permitted development rights in the Green Belt to be necessary. The Council has not provided any specific justification for the

withdrawal of permitted development rights in this case. I therefore consider that to do so would be contrary to the tests of reasonableness and necessity. I shall not therefore impose the suggested condition.

16. For the reasons set out above and having regard to all other matters raised, I allow the appeal.

KE Down
INSPECTOR

DLA7



Appeal Decisions

Site visit made on 28 January 2025

by **Elaine Moulton BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th March 2025

Appeal A Ref: APP/P1940/W/24/3346997

Land at rear of 47 Church Lane, Sarratt, Hertfordshire WD3 6HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Jon and Chris Adams against the decision of Three Rivers District Council.
 - The application Ref is 23/1794/FUL.
 - The development proposed is the demolition of existing structures with Commercial Wholesaler Use. Construction of five detached, single storey four bedroom houses, with associated parking, bin and cycle storage, landscaping and access improvements.
-

Appeal B Ref: APP/P1940/W/24/3349084

Land at rear of 47 Church Lane, Sarratt, Hertfordshire WD3 6HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Jon and Chris Adams against the decision of Three Rivers District Council.
 - The application Ref is 24/0464/FUL.
 - The development proposed is the demolition of existing structures with Commercial Wholesaler Use. Construction of four detached, single storey four bedroom houses, with associated parking, bin and cycle storage, landscaping and access improvements.
-

Decision

1. **Appeal A** is allowed and planning permission is granted for the demolition of existing structures with Commercial Wholesaler Use. Construction of five detached, single storey four bedroom houses, with associated parking, bin and cycle storage, landscaping and access improvements at land at the rear of 47 Church Lane, Sarratt, Hertfordshire WD3 6HN in accordance with the terms of the application, Ref 23/1794/FUL, subject to the conditions in the attached schedule.
2. **Appeal B** is allowed and planning permission is granted for the demolition of existing structures with Commercial Wholesaler Use. Construction of four detached, single storey four bedroom houses, with associated parking, bin and cycle storage, landscaping and access improvements at land at the rear of 47 Church Lane, Sarratt, Hertfordshire WD3 6HN in accordance with the terms of the application, Ref 24/0464/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

3. As set out above, there are two appeals on the same site, which differ in respect of the number of dwellings that are proposed. I have considered each proposal on its

individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. I have taken the descriptions of development as set out above from the respective planning application forms but have, in both cases, omitted 'Planning Reference 23/0105/RSP Retrospective' as it is not a description of development.
5. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. The main parties have been given the opportunity to comment on the revised Framework and in reaching my decision I have taken account of the responses received. For the avoidance of doubt, where reference is made to the Framework, the paragraph numbers quoted are those that appear in the latest version.
6. An Appeal Statement on Highways and Transport Matters has been provided on behalf of the appellant, which sets out additional information in response to the second reason for refusal for each appeal proposal. In addition, a Viability Assessment has been provided by the appellant in response to the third reason for refusal of the Appeal A proposal.
7. The Highway Authority has commented on the highways information, indicating that it now considers that the proposals are a betterment of the existing situation on site, through the reduction of commercial vehicle movement and the scale of development. This has led to the Council confirming that it is now satisfied that, subject to the imposition of conditions, a safe access would be provided for the proposed dwellings. Based on the evidence before me, I find that the proposed highway works, in addition to the removal of the commercial traffic associated with the existing use of the site, would improve the safety of pedestrians using the site access to get to the countryside beyond. As such, I agree with the Council in this regard.
8. An independent review of the viability information provided has been sought and obtained by the Council, which concludes that neither scheme is able to support an affordable housing payment. The Council accepts the findings of the review and there is no compelling evidence in front of me that would lead me to a different conclusion.
9. Accordingly, the Council has chosen not to defend the second reason for refusal in respect of Appeals A and B, or to defend the third reason for refusal in respect of Appeal A, as it considers that the concerns expressed in those reasons have been addressed to its satisfaction. For the reasons given above, I have no cause to disagree with the Council's conclusions on these matters. I therefore do not address highway safety or affordable housing matters as main issues.

Main Issue

10. The main issue in both Appeal A and B is whether the proposals would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.

Reasons

11. The Framework states, at paragraph 153, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CP11 of the Core Strategy (adopted 17 October

2011) (CS) and Policy DM2 of the Development Management Policies Local Development Document (adopted July 2013) (LDD) are consistent with the Framework as they include a presumption against inappropriate development.

12. Paragraph 154 of the Framework explains that development in the Green Belt is inappropriate unless one of the listed exceptions apply. Relevant to this appeal is exception 154(g), which allows for the limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
13. There is some dispute between the parties as to whether the appeal site meets the definition of previously developed land (PDL) as set out in Annex 2 of the Framework. The Council suggest that there is some doubt as to whether part of the site, which lies outside of land which has planning permission for use as a commercial wholesaler, is PDL. However, I observed at my visit that all of the site is within the same enclosed area and is occupied by several permanent structures that are spread across it. No part of the site appears to be used as gardens to any of the properties on Church Lane that back onto it or is otherwise segregated or distinguishable from the remainder. The entire site appears to be utilised in connection with the commercial wholesaler use.
14. In the context of the evidence before me, I find that all of the site accords with the definition of PDL. As such, it is the effect of the proposed developments on the openness of the Green Belt that will determine whether they are inappropriate development.
15. The site adjoins open land and is located directly to the rear of a line of dwellings that front onto Church Lane. It currently contains a large glasshouse, several smaller buildings and a polytunnel. These buildings and structures are sited close together and, with the hard surfaced areas, cover a large proportion of the site resulting in it appearing densely developed. In view of this, and in the wider context as described, the contribution of the appeal site to the openness of the Green Belt is limited.
16. The buildings proposed in both appeals would replace all existing site buildings and structures. It is clear from the appellants measurements, which have not been disputed by the Council, that the buildings proposed in Appeal A would represent a 43.5% reduction in footprint and 34.3% reduction in volume when compared with the existing development, excluding the existing polytunnel. As fewer dwellings are proposed in Appeal B, that development would represent an even greater reduction in footprint and volume.
17. In respect of Appeal A, the proposed single storey dwellings would span the width of the site and much of the frontage of the dwellings would be hard surfaced to form the shared access, driveways and parking spaces. Nonetheless, each property would have frontage landscaping, of varying extent, and each would have a reasonably sized rear garden. Accordingly, even when taking into consideration that the overall height of the dwellings would be greater than any existing buildings, the Appeal A proposal would result in a less densely developed, open and spacious site. The site would appear even more open and less densely

developed as a result of the Appeal B proposal, given that fewer dwellings of a similar footprint to those in Appeal A are proposed.

18. Both proposals would lead to the introduction of domestic paraphernalia onto the site. However, as this would be seen in the context of the rear gardens of existing residential properties, its impact on the openness of the Green Belt would be limited.
19. Overall, I find that both proposals, when compared to the existing situation, would not increase the impact and, therefore, would not cause substantial harm to its openness. As such they fall within exception 154(g) of the revised Framework and are, therefore, not inappropriate development.
20. As the proposals in both cases fall within the 154(g) exception, it is not necessary for consideration to be given to the other circumstances where the development of homes in the Green Belt should also not be regarded as inappropriate, set out at paragraph 155 of the Framework.
21. Accordingly, the Appeal A and Appeal B proposals would not be inappropriate development in the Green Belt and would, therefore, accord with CS Policy CP11 and LDD Policy DM2.

Other Matters

22. Annex 2 of the Framework defines major housing development as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. Notwithstanding the different definition of major development in the DMPO¹, the proposals in both cases are major housing development for the purposes of the Framework due to the site area. Therefore, the 'Golden Rules' set out at paragraph 156 of the Framework are a consideration. These require that contributions should be made to affordable housing, improvements to local or national infrastructure, and the provision of new, or improvements to, existing green spaces that are accessible to the public.
23. It has been demonstrated that neither proposal is able to support an affordable housing payment. Nonetheless, the Planning Practice Guidance (PPG) indicates that where development takes place on land situated in the Green Belt and is subject to the 'Golden Rules', such a site-specific viability assessment should not be taken into account for the purpose of reducing development contributions, including affordable housing². Accordingly, the first 'Golden Rule' would not be met as no affordable housing contribution would be made in either case. In addition, the third 'Golden Rule' would not be met as new, or improvements to existing, green spaces would not be provided in either case.
24. In both appeals, improvements are proposed, on and off-site, to public footpaths and a public right of way. Such works could reasonably be regarded as necessary improvements to local infrastructure, thereby meeting the second 'Golden Rule'. Nonetheless, two of the three 'Golden Rules' would not be met which weighs against the proposals.
25. The appellants state that the Annual Monitoring Report (AMR), published in December 2023, indicated that the Council only have a 1.9-year housing land

¹ Town and Country Planning (Development Management Procedure) (England) Order 2015

² Paragraph: 029 Reference ID: 10-029-20241212

supply. This figure has not been disputed by the Council. Furthermore, on 12 December 2024, the Government published the 2023 Housing Delivery Test (HDT) results which show that the Council has delivered 30% of its housing requirement over the latest 3-year period. This is a considerably worse position than the undisputed 46% delivery referred to by the appellants. Therefore, given the HDT result and that the Council cannot demonstrate a five year supply of deliverable housing sites, paragraph 11d) of the Framework applies. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and provided affordable homes, individually or in combination.

26. In reaching my decision I have had regard to the representation from an interested party referring to a planning permission, granted on appeal, for residential development on land to the rear of 17-49 Church Lane (the Burlington Permission). It is suggested that the Highway Authority has acted unreasonably by withdrawing its objections to the access arrangements proposed, which are said to be incompatible with those approved in the Burlington Permission. However, my consideration is of the planning merits of the appeal proposals that are before me, which, for the reasons given above, I have found to be acceptable. The conduct of the Highway Authority is a matter that falls outside of the remit of this decision.

Planning balance

27. The proposed developments would provide either five (Appeal A) or four (Appeal B) new dwellings, thereby making a modest contribution towards the Framework's aim to boost the supply of housing. Having considered the serious shortfall in housing land supply and delivery detailed above, I afford such a benefit significant weight.
28. Modest benefits to the local economy would also arise from both proposals due to the construction and occupation of the dwellings. In both cases, the developments would make effective use of PDL on the edge of a village with some, albeit limited services and facilities and would meet one of the three 'Golden Rules' set out in paragraph 156 of the Framework. I attribute moderate weight to each of these benefits
29. Weighed against these benefits is the fact that the proposals would not meet all three 'Golden Rules'. I attach moderate weight to this 'harm'. Nonetheless, overall, there are no adverse impacts that would significantly and demonstrably outweigh the benefits set out above, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies. As a result, the presumption in favour of sustainable development should be applied.

Conditions

30. The Council have suggested conditions in the event that I was minded to allow the appeals, which I have reviewed and amended in line with guidance and best practice, and to ensure clarity and consistency. Except where otherwise indicated, the conditions referred to relate to both schemes.

31. I have, in the interests of certainty, a condition that specifies that the developments are carried out in accordance with the approved plans.
32. To minimise risks to the occupants of the site, neighbouring occupiers and the environment, conditions are required to ensure that contamination, including that which is unexpected, is appropriately addressed, and that verification is provided. To ensure that appropriate investigation is carried out at a very early stage of the development, the required scheme to deal with risks of contamination is set out in a pre-commencement condition.
33. I have imposed a condition requiring a Construction Method Statement so that the construction process is suitably controlled in the interests of highway safety and to protect the living conditions of nearby residents. This is a pre-commencement condition to ensure that appropriate controls are in place before development commences.
34. In the interests of the character and appearance of the area, I have imposed a condition requiring the implementation of tree protection measures which is a pre-commencement condition to ensure that trees are protected over the full course of construction works. Also, in the interests of the character and appearance of the area, conditions requiring agreement to the external construction materials, a scheme for the storage and collection of waste, and landscaping, are appropriate and necessary. To protect the living conditions of the occupants of the development and neighbouring occupiers, a condition controlling the position of certain rooflights is required to reduce overlooking. Approval of the details of waste storage and collection is also required for that reason.
35. For the avoidance of doubt and to safeguard the openness of the Green Belt, I have imposed a condition requiring the demolition of the existing structures on the site.
36. Conditions relating to off-site highway works, improvements to rights of way, improvements to the existing vehicular access, the prevention of surface water being discharged onto the highway, and lighting of the access are necessary and appropriate to ensure that the respective development does not adversely impact on highway safety. It is also appropriate and necessary to impose conditions that require the completion of road safety audits of the site access and off-site works proposed in Appeal A, and for the detailed design of such works to be informed by the outcome of such audits. These need to be pre-commencement conditions to ensure that highway safety matters are properly and reasonably addressed before development begins. As it has been confirmed by the Council that such works proposed in Appeal B have already been subject to the required audits, there is no need to include such conditions in that decision.
37. A condition requiring the implementation of the submitted Biodiversity Net Gain Assessment is necessary to satisfy policy requirements. I have, however, amended the wording to ensure that it includes the required implementation and maintenance clauses.
38. In the interests of sustainable development, I have imposed a condition which requires the implementation of energy saving and renewable energy measures. For the same reason, and notwithstanding that the Council only suggested it in respect of Appeal A, I have imposed a condition requiring the provision of electric vehicle charging points in both appeals.

39. The Council has also suggested a condition that removes certain permitted development rights as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Paragraph 54 of the Framework indicates that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The PPG also states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness.
40. In this case, the retention of permitted development rights at the site could give rise to further built form within the Green Belt. Nevertheless, the extent of such development would be limited by the criteria set out in the GPDO and would be constrained by, and limited to, the appeal site. Furthermore, there is no compelling evidence that suggests that exercising permitted development rights would have an unacceptable effect on the openness of the Green Belt or its purposes. Overall, there is no clear justification for the removal of permitted development rights and, accordingly, I have not imposed the suggested condition.

Conclusion

41. For the reasons given above, having regard to the development plan as a whole and all relevant material considerations, I conclude that Appeal A and Appeal B should be allowed.

Elaine Moulton

INSPECTOR

Schedule of Conditions

Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: CL/23/LP01A; CL/23/L01A; CL/23/L02B; CL/23/L03A; CL/23/L04A; CL/23/05A; CL/23/06A; CL/23/L10; CL/23/L11; CL/23/L12; CL/23/L13; CL/23/L14; CL/23/L15; CL/23/L16; CL/23/L17; CL/23/L18; CL/23/L19; CL/23/L20; CL/23/L21; CL/23/L22; CL/23/L23; CL/23/L24; and CL/23/L30.
- 3) Prior to the commencement of development approved by this planning permission (or such other date or development stage as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority.
 - (i) A site investigation, based on the Phase 1 Geo-environmental Report prepared by JNP Group (Report ref. M44342-JNP-XX-XX-RP-G-1000 P01), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - (ii) The site investigation results and the detailed risk assessment (i) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - (iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
- 4) Following the completion of measures identified in the approved remediation measures pursuant to condition 3, and prior to first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme, and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the local planning authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 5) In the event that contamination, not previously identified, is found at any time when carrying out the approved development it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the local planning authority.
- 6) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the

approved Method Statement. The Construction Method Statement shall include details of:

- a) Construction vehicle numbers, type, routeing.
 - b) Access arrangements to the site.
 - c) Traffic management requirements.
 - d) Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas).
 - e) Siting and details of wheel wash facilities.
 - f) Cleaning of site entrances, site tracks and the adjacent public highway.
 - g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times.
 - h) Provision of sufficient on-site parking prior to commencement of construction activities.
 - i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
 - j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.
 - k) Phasing plan.
- 7) No development shall commence until a Stage 1 and Stage 2 Road Safety Audit for the improvements works from Church Lane to the site access identified in drawing 23071/001/Rev A have been submitted to and approved in writing by the local planning authority. The detailed design of the scheme shall be informed by the Stage 1 and Stage 2 Road Safety Audit. The design shall specifically address any conflicts between vehicles, pedestrians and cyclists.

Within 6 months of the completion of the development a Stage 3 Road Safety Audit shall be submitted to the local planning authority for written approval.

- 8) No development shall commence until a Stage 1 and Stage 2 Road Safety Audit for off-site improvements as identified in drawing 23071/003 have been submitted to and approved in writing by the local planning authority. The detailed design of the scheme shall be informed by the Stage 1 and Stage 2 Road Safety Audit. The design shall specifically address any conflicts between vehicles, pedestrians and cyclists.

Within 6 months of the completion of the development a Stage 3 Road Safety Audit shall be submitted to the local planning authority for written approval.

- 9) No operations whatsoever (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained, and all other trees not indicated as to be removed and their root systems, have been protected from any damage during site works in accordance with the details shown within the submitted Arboricultural Report prepared by David Clarke and the Tree Protection Plan (LP/ANCLSH/010 A).

The protective measures, including fencing, shall be installed in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in

accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit, or liquids disposed of, within 10 metres of an area designated as being fenced off or otherwise protected in the approved scheme.

The development approved shall thereafter be implemented only in accordance with the details as set out in the submitted Arboricultural Report prepared by David Clarke.

- 10) No on-site works above slab levels shall commence until samples and details of the proposed external materials have been submitted to and approved in writing by the local planning authority, and no external materials shall be used in the construction of the development other than those approved.
- 11) No on-site works above slab levels shall commence until the existing structures within the site, as shown to be removed on the approved plans, have been demolished.
- 12) No on-site works above slab levels shall commence until a Lighting Scheme for the proposed access from Church Lane has been submitted to and approved in writing by the local planning authority. The lighting scheme should detail how pedestrians, cyclists and other wheeled vehicle users can safely utilise the access and shall include the location and full specifications of all lamps, light levels/spill, lamps and support structures. The lighting shall be installed in accordance with the approved details prior to the first occupation of the development hereby permitted and retained permanently thereafter.
- 13) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab levels shall commence until a detailed scheme for the off-site highway improvements indicated on drawing number 23071/003 have been submitted to and approved in writing by the local planning authority. Such improvement works shall be completed in accordance with the approved details prior to the first use of the development hereby permitted.
- 14) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab levels shall commence, unless otherwise agreed, until a Rights of Way improvement Plan for the off-site and on-site Rights of Way improvement works has/have been submitted to and approved in writing by the local planning authority. Such off-site and on-site Rights of Way improvements shall be completed in accordance with the approved details prior to the first use of the development hereby permitted.
- 15) The development shall not be occupied until a scheme for the separate storage and collection of domestic waste has been implemented in accordance with details that shall have been submitted to and approved in writing by the local planning authority. Details shall include siting, size, and appearance of refuse and recycling facilities on the premises. The approved scheme shall be retained permanently thereafter.
- 16) The proposed hard and soft landscaping shall be carried out in accordance with the details as more particularly set out on drawing number LP/ANCLSH/020 A. All hard landscaping shall be carried out and completed prior to the first occupation of the new dwellings hereby permitted. All soft landscaping shall be carried out before the end of the first planting and seeding season following first occupation of any of the dwellings or completion of the development, whichever is sooner.

If any tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of the development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).

- 17) The flank rooflights hereby permitted shall be position at a minimum cill height of 1.7 metres above the internal floor level.
- 18) The development shall not be occupied until the vehicular access improvements, as indicated on drawing number 23071/001/Rev A, have been completed and thereafter the access shall be maintained in accordance with the approved details.
- 19) The development shall not be occupied until arrangements have been made for surface water from the proposed development to be intercepted and disposed of separately so that it is not discharged onto the highway carriageway.
- 20) The development shall not be occupied until Biodiversity Gain is carried out in accordance with the submitted Biodiversity Net Gain Assessment dated 18 October 2023 by LUS Ecology. Thereafter the biodiversity gain measures shall be maintained.
- 21) The development shall not be occupied until the energy saving and renewable energy measures detailed within the submitted Energy Statement have been implemented.
- 22) No dwelling shall be occupied until it has been provided with an active (ready to use) electric vehicle charging point which shall be retained permanently thereafter.

Appeal B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: CL/23/LP01; CL2/24/L01; CL2/24/L02; CL2/24/L03; CL2/24/L04; CL2/234/L05; CL2/24/L06; CL2/24/L10; CL2/24/L11; CL2/24/L12; CL2/24/L13; CL2/14/L14; CL2/24/15; CL2/24/L16; CL2/24/L17; CL2/24/L18; CL2/24/L19; CL2/24/L20; and CL2/23/L21
- 3) Prior to the commencement of development approved by this planning permission (or such other date or development stage as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority.
 - (iv) A site investigation, based on the Phase 1 Geo-environmental Report prepared by JNP Group (Report ref. M44342-JNP-XX-XX-RP-G-1000 P01), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - (v) The site investigation results and the detailed risk assessment (i) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - (vi) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (ii) are complete and identifying any

requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

- 4) Following the completion of measures identified in the approved remediation measures pursuant to condition 3, and prior to first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme, and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the local planning authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 5) In the event that contamination, not previously identified, is found at any time when carrying out the approved development it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the local planning authority.
- 6) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Method Statement. The Construction Method Statement shall include details of:
 - a) Construction vehicle numbers, type, routeing.
 - b) Access arrangements to the site.
 - c) Traffic management requirements.
 - d) Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas).
 - e) Siting and details of wheel wash facilities.
 - f) Cleaning of site entrances, site tracks and the adjacent public highway.
 - g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times.
 - h) Provision of sufficient on-site parking prior to commencement of construction activities.
 - i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
 - j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.
 - k) Phasing plan.
- 7) No operations whatsoever (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained, and all other trees not indicated as to be removed and their root systems, have been protected from any damage during site

works in accordance with the details shown within the submitted Arboricultural Report prepared by David Clarke and the Tree Protection Plan (LP/ANCLSH/010 C).

The protective measures, including fencing, shall be installed in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit, or liquids disposed of, within 10 metres of an area designated as being fenced off or otherwise protected in the approved scheme.

The development approved shall thereafter be implemented only in accordance with the details as set out in the submitted Arboricultural Report prepared by David Clarke.

- 8) No on-site works above slab levels shall commence until samples and details of the proposed external materials have been submitted to and approved in writing by the local planning authority, and no external materials shall be used in the construction of the development other than those approved.
- 9) No on-site works above slab levels shall commence until the existing structures within the site, as shown to be removed on the approved plans, have been demolished.
- 10) No on-site works above slab levels shall commence until a Lighting Scheme for the proposed access from Church Lane has been submitted to and approved in writing by the local planning authority. The lighting scheme should detail how pedestrians, cyclists and other wheeled vehicle users can safely utilise the access and shall include the location and full specifications of all lamps, light levels/spill, lamps and support structures. The lighting shall be installed in accordance with the approved details prior to the first occupation of the development hereby permitted and retained permanently thereafter.
- 11) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab levels shall commence until a detailed scheme for the off-site highway improvements indicated on drawing number 23071/003 have been submitted to and approved in writing by the local planning authority. Such improvement works shall be completed in accordance with the approved details prior to the first use of the development hereby permitted.
- 12) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab levels shall commence, unless otherwise agreed, until a Rights of Way improvement Plan for the off-site and on-site Rights of Way improvement works has/have been submitted to and approved in writing by the local planning authority. Such off-site and on-site Rights of Way improvements shall be completed in accordance with the approved details prior to the first use of the development hereby permitted.
- 13) The development shall not be occupied until a scheme for the separate storage and collection of domestic waste has been implemented in accordance with details that shall have been submitted to and approved in writing by the local planning

authority. Details shall include siting, size, and appearance of refuse and recycling facilities on the premises. The approved scheme shall be retained permanently thereafter.

- 14) The proposed hard and soft landscaping shall be carried out in accordance with the details as more particularly set out on drawing number LP/ANCLSH/020 C. All hard landscaping shall be carried out and completed prior to the first occupation of the new dwellings hereby permitted. All soft landscaping shall be carried out before the end of the first planting and seeding season following first occupation of any of the dwellings or completion of the development, whichever is sooner.

If any tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of the development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).

- 15) The flank rooflights hereby permitted shall be position at a minimum cill height of 1.7 metres above the internal floor level.
- 16) The development shall not be occupied until the vehicular access improvements, as indicated on drawing number 23071/001/Rev A, have been completed and thereafter the access shall be maintained in accordance with the approved details.
- 17) The development shall not be occupied until arrangements have been made for surface water from the proposed development to be intercepted and disposed of separately so that it is not discharged onto the highway carriageway.
- 18) The development shall not be occupied until Biodiversity Gain is carried out in accordance with the submitted Biodiversity Net Gain Assessment dated 13 March 2024 by LUS Ecology. Thereafter the biodiversity gain measures shall be maintained.
- 19) The development shall not be occupied until the energy saving and renewable energy measures detailed within the submitted Energy Statement have been implemented.
- 20) No dwelling shall be occupied until it has been provided with an active (ready to use) electric vehicle charging point which shall be retained permanently thereafter.