



## Appeal Decision

Site visit made on 9 September 2021

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

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### Appeal Ref: **APP/P2365/W/21/3273049**

### **Mickering Cottage, Mickering Lane, Aughton L39 6SR**

- 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 Ms Elizabeth Quick against the decision of West Lancashire Borough Council.
  - The application Ref 2021/0140/FUL, dated 3 February 2021, was refused by notice dated 23 March 2021.
  - The application sought planning permission for 'conversion of existing building to single dwelling' without complying with a condition attached to planning permission Ref 8/98/0127, dated 28 October 1998.
  - The condition in dispute is No 5 which states that:  
*Notwithstanding the provisions of the Town and Country Planning (General Permitted Development and General Development Procedure) Orders 1995 or any subsequent Orders or statutory provision re-enacting the provisions of these Orders no garages, extensions, alterations, porches, garden sheds, out buildings, greenhouses, swimming pools, hardstandings or means of enclosure shall be erected or undertaken without the express written permission of the Local Planning Authority*
  - The reason given for the condition is:  
*The character and location of the property are such that the Local Planning Authority wish to exercise maximum control over future development*
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### Decision

1. The appeal is allowed and the planning permission Ref 8/98/0127 for conversion of existing building to single dwelling at Mickering Cottage, Mickering Lane, Aughton L39 6SR granted on 28 October 1998 by West Lancashire Borough Council, is varied by deleting condition 5, but subject to the other conditions imposed therein, so far as the same are still and capable of taking effect.

### Preliminary Matters

2. During the course of the appeal, the revised National Planning Policy Framework (July 2021) (the Framework) was published. Parties were provided with an opportunity to comment on the relevance of this, and I have taken any subsequent comments received into account in my determination of this appeal.

### Main Issue

3. The main issue is whether the condition is necessary and reasonable having regard to local and national policies relating to proposals affecting the Green Belt.

## Reasons

4. The appeal site comprises a detached, two-storey dwelling which sits in a generous plot among a cluster of similar properties. The planning history of the site indicates the building was formerly in agricultural use and was permitted for conversion into a dwelling subject to conditions. Some extensions were reinstated or replaced as part of the conversion and the Council, at the time of the approval, included a condition to withdraw permitted development rights for several development types for the property due to its location within the Green Belt. The proposal seeks to remove this condition.
5. My attention is drawn to the Development in the Green Belt Supplementary Planning Document (the SPD). This states the Council reserves the right to remove permitted development rights for development which may have an adverse impact upon the openness of the Green Belt. This may include extensions and outbuildings, fences or activities such as external storage.
6. However, paragraph 54 of the Framework states planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Expanding on this, the Planning Practice Guidance (PPG) advises conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the GPDO, so that it is clear exactly which rights have been limited or withdrawn.
7. 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. Be that as it may, the GPDO does not withdraw permitted development rights from buildings within the Green Belt on this basis alone and there is nothing in the Framework which indicates that such rights should be restricted in the Green Belt as a matter of course.
8. I understand the concern that future additions to the dwelling or within its curtilage could impact on the openness of the Green Belt. It is also considered that the extensions approved in the original permission allowed the property to grow to a size that was considered to be of maximum allowable without harming the openness of the Green Belt.
9. However, I understand those extensions were largely rebuilt or replaced, while other outbuildings were removed which would have increased openness. Moreover, any works that would be considered to fall under permitted development rights would still be subject to control under the relevant restrictions and conditions specified in the relevant sections of the GPDO. Even without Council control and assessment under paragraph 149(c) of the Framework, there is nothing before me to indicate any future extensions or alterations would necessarily be a disproportionate addition to the original building given the restrictions the GPDO places on these developments. In any event, Green Belt policy in the Framework does not require permitted development to be assessed against whether it is inappropriate or not, nor is it necessary to assess any impact on openness.
10. As such, I do not consider that any potential impact on the Green Belt would amount to the clear justification required to warrant withholding permitted

development rights. I find the disputed planning condition is unnecessary and conflicts with paragraph 54 of the Framework and advice in the PPG.

**Conclusion**

11. For the reasons given above I conclude that the planning permission should be varied as set out in the formal decision.

*C McDonagh*

INSPECTOR