



Appeal Decision

Site visit made on 26 July 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 25 August 2022

Appeal Ref: APP/P2365/W/22/3296086

Ollery Hall Farmhouse, Plumpton Lane, Halsall, Ormskirk L39 8SL

- 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 Colin Jones against the decision of West Lancashire Borough Council.
 - The application Ref 2021/1477/FUL, dated 20 December 2021, was approved on 17 March 2022 and planning permission was granted subject to conditions.
 - The development permitted is the removal of condition No 4 of planning permission 2020/0446/FUL relating to removal of permitted development rights.
 - The condition in dispute is No 2 which states that: *'The provisions 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) Schedule 2, Class E - buildings etc incidental to the enjoyment of a dwellinghouse or any amendments made to that Order, shall not apply: (i) no buildings (including green houses, swimming pools, garages or carports shall be erected within the curtilage of the dwelling unless on application to the Local Planning Authority, planning permission for such development has been granted.'*
 - The reason given for the condition is: *'The character and location of the property are such that the Local Planning Authority wish to exercise control over future development in order to protect the openness of the Green Belt and to comply with the provisions of Policy GN1(b) in the West Lancashire Local Plan 2012-2027 Development Plan Document and National Planning Policy Framework - Protecting Green Belt Land'.*
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Colin Jones against West Lancashire Borough Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Planning permission was originally granted in July 2020 for a two-storey extension to the rear of the existing property and the refurbishment and adaptation of the existing labourer's cottage together with a single link between the buildings and the erection of an external store (Ref: 2020/0446/FUL). This included a condition (4) removing permitted development rights for Schedule 2, Parts 1 A-F and 2 A-B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order with or without modification) (GPDO).

4. Following this, a further application (Ref: 2021/1477/FUL) was submitted and permission was granted for the removal of condition 4 of planning permission 2020/0446/FUL. However, this was subject to the imposition of a condition (2) which allowed permitted development rights for all provisions other than for buildings permitted under Class E of the GPDO on the site. The Council considers this condition to be necessary to protect the openness of the Green Belt.
5. The main issue is therefore whether the condition is reasonable or necessary in the interests of the openness of the Green Belt.

Reasons

6. Paragraph 56 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. More specifically, paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
7. The Planning Practice Guidance (PPG)¹ also advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. It states that 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. This paragraph goes on to advise that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
8. It is not disputed by the appellant that the volume calculations submitted with the approved application Ref: 2020/0446/FUL indicated that the overall volume increase of the proposals would be 43.1% more than the volume of the original dwelling house. This permission has been implemented and having seen the size and scale of these extensions and alterations on my site visit I have no substantive reason to question this percentage figure.
9. These additions already exceed the 40% volume threshold guide for what constitutes disproportionate development, as set out in the Council's Supplementary Planning Document 'Development in the Green Belt' 2015 (SPD). The SPD also states that 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.
10. The reason for refusal is clear in that the Council seeks control in assessing any future effects on the openness of the Green Belt. A detached house on a very large plot, such as the appeal site, could otherwise feasibly undertake a significant amount of development without the need for planning permission.
11. I appreciate that Ollery Hall Farmhouse is not a listed building and that the appeal site is not within a conservation area. Its location within the Green Belt, does also not, in itself, represent clear justification to warrant removal of

¹ Planning Practice Guidance ID: 21a-017-20190723

permitted development rights. Nonetheless, the dwelling is in a remote and exposed location within the countryside, with open agricultural fields directly to the south and west of the site. It also sits within expansive grounds with a very long rear garden area that is readily apparent from Carr Moss Lane, an unmade track to the south and open fields beyond. Although the appeal site contains a number of deciduous mature trees that would filter long-distance views of it, these would not constitute permanent screening, particularly in the winter months when the trees would not be in leaf. Consequently, I find that the appeal site is sensitive to change from further additions.

12. In my judgement, removing the disputed condition would therefore have the potential to be disproportionate, significantly increasing the volume of development and its spread (including large outbuildings) within the extensive rear garden area. In turn, there is potential for such works to harm the openness of the Green Belt in both visual and spatial terms.
13. Furthermore, the disputed condition precisely defines the relevant provisions of the GPDO and it is clear which rights have been withdrawn given the specific reference to Class E buildings. It is consequently not an 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.
14. The removal of permitted development rights for such buildings would also not preclude the appellant from applying for planning permission for them, including the suggested modern brick garage, greenhouse and garden shed, in the future, which the Council would need to consider on its own merits. I therefore find that the imposition of the disputed condition is clearly justified by the potential impact of any future permitted development on the openness of the Green Belt in addition to the development already permitted.
15. Based on the evidence before me, having regard to the tests set out in paragraph 56 of the Framework, condition 2 is therefore reasonable and necessary in the interests of the openness of the Green Belt. As such, the development without the disputed condition would conflict with Policy GN1 of the West Lancashire Local Plan 2012-2027 Development Plan Document 2013, advice within the SPD and Section 13 of the Framework which seek to protect Green Belt land.

Other Matters

16. The Council and the appellant have drawn my attention to a number of previous appeal decisions relating to the removal of permitted development rights in the Green Belt. Whilst I have had regard to these decisions in reaching my findings, each application and appeal must be determined on its own merits. Furthermore, the different conclusions reached by the Inspectors in respect of whether there was clear justification for removing permitted development rights in these appeals involved the exercising of planning judgement, which is what I have done in this case.

Conclusion

17. For the reasons given above, the appeal should therefore be dismissed.

Mark Caine INSPECTOR