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# Appeal Decision

Site visit made on 11 October 2022

**by A. Price BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 November 2022**

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**Appeal Ref: APP/M1595/W/21/3286568**

**Tanga, Inglefield Road, Fobbing SS17 9HW**

- 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 carried out without complying with a condition subject to which a previous planning permission was granted.
  - The appeal is made by Mr J Curran against the decision of Thurrock Borough Council.
  - The application Ref 21/01077/CV, dated 14 May 2021, was refused by notice dated 17 August 2021.
  - The application sought planning permission for a replacement dwellinghouse without complying with a condition attached to planning permission Ref 94/00646/FUL, dated 5 January 1995.
  - The conditions in dispute is No 5 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, E, F shall take place without the grant of an additional planning permission by the Local Planning Authority.*
  - The reason given for the condition is:  
*To protect the amenities of adjoining residents and environment of the area.*
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## Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling house at Tanga, Inglefield Road, Fobbing SS17 9HW in accordance with the application Ref 21/01077/CV dated 14 May 2021, without compliance with any of the conditions, including number 5, previously imposed on planning permission Ref 94/00646/FUL, dated 5 January 1995.

## Background and Preliminary Matters

2. The planning permission granted for the replacement dwellinghouse outlined above, has been implemented. The dispute in respect of condition 5 is limited to whether permitted development rights should apply, largely for extensions and alterations to the appeal dwelling and other alterations within the site.

## Main Issue

3. The main issue is the effect of the removal of condition 5 on the openness of the Green Belt.

## Reasons

4. 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 so<sup>1</sup>. The PPG also advises that conditions of this nature may not pass the test of reasonableness or necessity<sup>2</sup>.

5. The appeal site comprises a two-storey detached dwelling, set within a large garden plot. The rear and side boundaries of the site are bounded by mature landscaping. The front of the property is visible from Inglefield Road, an unmade road used to access several other properties.
6. The permitted development rights which have been removed would, in the main, allow extensions to the original property and alterations to the site. Any such 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.
7. 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 unlike in, for example, national parks. As such, the same permitted development rights typically apply to dwellings within the Green Belt as those which are not. Paragraphs 147-149 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.
8. The Council contends that the permitted dwelling, now implemented, was larger than that it replaced. However, there is no substantive evidence before me to indicate that this is 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.
9. The justification for imposing the condition on the original decision notice also relates to the living conditions of neighbouring properties. However, there is no dispute under this appeal in this respect. I have no reason to disagree.
10. For the reasons given above, I conclude that the removal of condition number 5 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 the condition would be in accordance with the relevant provisions of Policies CSSP4 and PMD6 of the Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (2015) and paragraphs 147-149 of the Framework. These, in summary seek to protect the open character of the Green Belt and ensure that extensions to buildings are not disproportionate over and above the size of the original building. This is in a similar vein to the objectives of the Residential Alterations and Extensions Supplementary Planning Document (2017).

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<sup>1</sup> Paragraph 54

<sup>2</sup> Paragraph: 017 Reference ID: 21a-017-20190723

## **Conditions**

12. Given that the development has commenced, the originally imposed condition 1 in respect of standard time limits is not necessary and has not been reimposed.
13. The other conditions on the original planning permission for the replacement dwellinghouse are all related to the construction of the building (2 – approval of external materials; 3 – temporary hardstanding during construction; and 4 – installation of drains) or the removal of the former dwelling (6). As the permitted dwellinghouse has been built, and the former dwelling removed, these conditions are also unnecessary. The permission granted by this appeal is therefore not subject to any conditions.

## **Conclusion**

14. 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