



Appeal Decision

Site visit made on 5 September 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 13 November 2023

Appeal Ref: APP/H4315/W/23/3318939

Old Bold Hall, Warrington Road, Bold Heath, St Helens WA8 3XJ

- 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 John McLindon against the decision of St Helens Metropolitan Borough Council.
- The application Ref P/2022/0805/FUL, dated 24 November 2022, was approved on 13 March 2023 and planning permission was granted subject to conditions.
- The development permitted is demolition of existing stables and erection of 1no detached bungalow.
- The condition in dispute is No 15 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, Parts 1 A-F and 2 A-B, or any amendments made to that Order, shall not apply:
 - (i) No extensions shall be carried out to the dwelling(s);
 - (ii) No garages or carports shall be erected within the curtilage of the dwellings;
 - (iii) No vehicle standing space shall be provided within the curtilage of the dwellings;
 - (iv) No buildings, greenhouses, swimming pools, gates, walls, fences or other structures shall be erected within the curtilage of the dwellings;
 - (v) No means of access shall be constructed to the curtilage of the dwellings;
 - (vi) No windows or dormer windows shall be added to 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 National Planning Policy Framework and policies LPA01, and LPD05 of the St Helens Local Plan.'

Decision

1. The appeal is allowed and the planning permission Ref P/2022/0805/FUL for demolition of existing stables and erection of 1no detached bungalow at Old Bold Hall, Warrington Road, Bold Heath, St Helens WA8 3XJ, granted on 13 March 2023 by St Helens Metropolitan Borough Council, is varied by deleting condition 15.

Background and Main Issues

2. Planning permission was granted for the demolition of the stables and the erection of the detached bungalow. This included removing permitted development (pd) rights for extensions to the dwelling and restricting the construction of boundary treatments and the means of access to a highway. The officer report indicated that the condition was necessary to control future development to protect the openness of the Green Belt.

3. The main issue, therefore, is whether the condition is reasonable or necessary in the interests of protecting the openness of the Green Belt.

Reasons

4. The site is in the Green Belt. Whilst the construction of new buildings is inappropriate in the Green Belt, the existing planning permission determined that the consented bungalow was an exception under paragraph 149 g) of the National Planning Policy Framework (the Framework).
5. The aim of Green Belt policy is to keep land permanently open, with the essential characteristics of Green Belts being their openness and their permanence. The consented development was considered to not have a greater impact on the openness of the Green Belt than the existing development. The Council contended, however, that future extensions and outbuildings constructed under permitted development¹ (the GPDO) could have an impact on openness, justifying the need for a planning application in order to consider the effects.
6. The consented dwelling would be single storey, therefore the restrictions in height within Class A of the GPDO would prevent any extensions being higher than the building. Furthermore, the rear elevation of the consented dwelling would be located close to the boundary of the site, which in turn is adjacent to agricultural buildings. Therefore, a rear extension built under pd would be very limited in size, even, if possible, to achieve. Whilst single-storey side extensions could be constructed, these would also be constrained by the size limitations in Class A of the GPDO.
7. Whilst Class B of the GPDO could allow extensions to the roof, these would be constricted by the modest nature of the building. Class C, which permits other alterations to the roof of a dwellinghouse, again has height restrictions which would prevent anything being constructed above the highest part of the original roof. Class D would allow only a small porch to be built.
8. Although Class E would allow within the curtilage a 'building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse', no part could be situated forward of a wall forming the principal elevation of the original dwellinghouse. As the dwelling would be sited against the boundary of the site, there would be only limited space within the grounds for the construction of a building that would not extend beyond the principal elevation of the original dwellinghouse. Further restrictions under Class E.1 (e) and (f) would also apply in terms of the heights and position of such a building.
9. Lastly, within Class F, which covers hard surfaces, there are restrictions in the size and construction of the hard surfaces, which in any case, would not be necessary in protecting the openness of the Green Belt.
10. In terms of Schedule 2, Part 2, Class A of the GPDO, which refers to 'gates, fences, walls etc', the consented scheme has already considered boundary treatments, and in any case, the GPDO restricts the height of these structures which would prevent their construction being harmful to the Green Belt.

¹ Schedule 2, Part 1 and Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

11. Part 2, Class B of the GPDO relates to the means of access to a highway. Access to the consented scheme has been considered as part of the planning permission and utilises an existing track. Any further restrictions to creating an access, would, therefore, not be necessary and would not harm the openness of the Green Belt.
12. The Council in their appeal statement have stated that some aspects of condition no 15 would not be necessary in protecting the openness of the Green Belt in terms of visual and spatial aspects. They have, therefore, suggested an amended condition, which amongst revisions to the wording would, in Schedule 2, Part 1, exclude Classes C and F, and in Schedule 2, Part 2, exclude Class B. The Council has also suggested including the removal of pd rights under Class AA of Part 1. Whilst both parties agree to this, development in Class AA requires a separate application for prior approval from the Council. Furthermore, it does not apply to dwellings constructed after 28 October 2018, which would be the case at this site.
13. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The GPDO does not differentiate between these rights in the Green Belt. Furthermore, the Planning Practice Guidance also advises that conditions of this nature will rarely pass the test of necessity and should only be used in exceptional circumstances. In addition, LP Policy LPD05, despite seeking to restrict ancillary structures, does not include removing pd rights in the Green Belt, and even if it did, this would not remove the need to consider whether the condition would accord with the tests in the Framework for valid conditions, along with other aspects of national policy.
14. Whilst future extensions and buildings could be constructed under pd rights, the proposed dwelling is not in a remote location, sited as it is behind much taller agricultural buildings and adjacent to an extensive farm complex. In light of the restrictions imposed by the GPDO, the physical constraints of the site, and the scale of the consented development, any effects on openness resulting from the exercise of permitted developments are unlikely to be anything other than very minor. This would be the case even if multiple rights were to be utilised. For these reasons, I find that the relevant tests in the Framework have not been met in this case.
15. I therefore conclude that the disputed condition is not reasonable or necessary in the interests of protecting the openness of the Green Belt. I shall therefore allow the appeal and vary the original permission by deleting the disputed condition.

Other Matters

16. The site is close to the Scheduled Ancient Monument, Old Bold Hall moated site. Historic England, who were consulted on the proposal, had no objection. The proposal would not affect the scheduled monument or its setting, however, condition 14 of the planning permission did require an archaeological watching brief during development of the site.
17. The site is within the setting of the separately listed, Grade II, early 18th century, bridge and gate piers at Bold Old Hall. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when granting planning permission for development affecting a listed building or its

setting, that there must be special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The exercise of permitted development rights would not affect the significance of the listed buildings and their setting.

Conclusion

18. For the reasons set out above, the appeal is allowed.

M J Francis

INSPECTOR