



Appeal Decisions

Site visit made on 24 October 2023

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2024

Appeal A Ref: APP/D0121/C/23/3324239

Appeal B Ref: APP/D0121/C/23/3324240

Appeal C Ref: APP/D0121/C/23/3324241

**Land at Linden Grove, Howgrove Hill, The Batch, Butcombe, Bristol
BS40 7UY**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr J Marszal (Appeal A), Mrs B Marzel (Appeal B) and Mr Brook McLaughlin (Appeal C) against an enforcement notice issued by North Somerset Council.
- The notice, numbered 20/00150/UAW, was issued on 12 May 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a single storey rear extension, as shown outlined in red on the attached plan¹.
- The requirements of the notice are to: Remove the single rear extension and all resulting materials from the land.
- The period for compliance with the requirement is 6 months from when the notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (d), (f), and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B and Appeal C are proceeding on the grounds set out in section 174(2) (d), (f), and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decisions: The appeals are allowed and the enforcement notice is quashed.

Appeal D Ref: APP/D0121/W/23/3316867

Land at Linden Grove, The Batch, North Somerset, Butcombe BS40 7UY

- 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 and Mrs J Marszal against the decision of North Somerset Council.
- The application Ref 22/P/2253/FUL, dated 16 September 2022, was refused by notice dated 2 December 2022.
- The application sought planning permission for: the restoration of the existing house together with a new extension to form a 4 bedroom dwelling without complying with a condition attached to planning permission Ref 00/P/1885/F, dated 11 January 2001.
- The condition in dispute is No 3 which states that: Notwithstanding the provisions of the Town and County Planning (General Permitted) Development Order 1995, or any order revoking and re-enacting that Order, no extensions or external alterations to the

¹ Reference to a plan here is to a plan attached the enforcement notices to which these appeals relate.

dwelling other than those authorised by this permission, shall be carried out without the permission, in writing, of the Local Planning Authority.

- The reason given for the condition is: The Local Planning Authority wish to retain control over extensions and external alterations in order to maintain the integrity and appearance of this development and in accordance with Policy GRB/4 of the North Somerset Local Plan.

Summary Decision: The appeal is allowed in part.

APPEALS A, B AND C

Ground (d)

1. An appeal on ground (d) is that, at the date on which the notice was issued, no enforcement action could be taken in respect of the breach of planning control alleged in the notice. In order to succeed, the appellants must show that the enforcement notice was issued after the end of the period of four years beginning with the date on which the operations, the single storey extension in this case, were substantially completed². The test in this regard is the balance of probability and the burden of proof is on the appellant.
2. My attention has been drawn to the case of *Sage v SSETR & Maidstone BC* [2003] UKHL 22; [2003] JPL 1299, which assists in determining whether or not a building can be regarded as substantially completed. In the case of building operations, *Sage* informs that what is required is 'a fully detailed building of a certain character'. The case endorses a holistic approach. Whilst the *Sage* case relates to a dwellinghouse, rather than an extension to a dwellinghouse, the judgment is still of assistance in this case.
3. There is no dispute that the works to erect the extension are a single building operation. By that I mean that the works are not part and parcel of other works that have taken place on the site.
4. The appellant on Appeal C has provided a statutory declaration in which he declares that he is a builder and that he completed the works to construct the extension on 3 May 2019. This date is some 4 years and 9 days prior to the issue of the enforcement notice.
5. He refers to the foundations and slab of the extension having been constructed in October 2018. The slab, without the extension, is visible in the Council's photographs (Appendix 2) taken on 19 April 2019. He describes the works involved in the construction of the extension, which include masonry pillars, a parapet wall and a timber flat roof. He says that the joinery for the windows and doors were constructed at his off site workshop in late March 2019, and that the final part of the extension involved the installation of the glazing which he says was delivered on 29 April and fitting completed on 3 May 2019. The receipt for the glazing only corroborates this element of Mr McLaughlin's evidence.
6. I acknowledge that the period between the Council Officer's visit to the site on 19 April 2019 and 3 May 2019 is a short time period within which substantial works were undertaken. However, I have been given no reason to find Mr McLaughlin's version of events at this time less than probable. Indeed, there is nothing before me to contradict this evidence. Furthermore, I am mindful of the significant weight that is carried by evidence provided in a statutory

² In accordance with section 171B (1) of the 1990 Act.

declaration, in view of the sanctions that could be imposed should these contain false or misleading evidence.

7. I acknowledge that Mr McLaughlin does not specifically refer to a weather proof finish to the roof or the lantern feature within the roof. He does, however, say that following the installation of the glazing, the extension was 'wind and watertight'. This suggests that all elements of the roof were in place at this time.
8. Turning to the rendering of the extension, this is visible in the Council's photographs at Appendix 4, taken on 28 July 2020. Whilst this is also not specifically referred to in the statutory declaration, there is nothing before me to indicate that it was not carried out prior to 3 May 2019. Indeed, I note that Mr McLaughlin says that only 'decorative finishes' to the extension were undertaken after 3 May 2019.
9. Some elements may not have been completed before the 3 May 2019 date, including the internal floor of the extension, the final fit for electrics, and the external down pipe. Even without these features, I cannot conclude that the development, as seen in the Council's July 2020 photographs, is not a fully detailed extension and that it does not have the character of a complete extension. I conclude as such, regardless of the use to which the extension is put.
10. I cannot agree that the lack of a down pipe and its connection to some form of drainage would prevent the extension from being used for its intended purpose. The roof of the extension would still drain without a downpipe, through the opening visible in the first 28 July 2020 photographs. A downpipe would only channel the surface water run off to an appropriate location.
11. Whilst the patio area surrounding the extension was completed some time after 3 May 2019, I find this to be a separate operation that is not integral to the extension. It does not alter my findings above.
12. Having regard to all of the above, whilst I acknowledge that the appellants' evidence is not extensive, I find it to be sufficiently precise and unambiguous. Furthermore, there is nothing before me that is sufficient to contradict the appellants' version of events or make them less than probable. Having regard to the details of the works to erect the extension in April and May 2019, I find as a matter of fact and degree that the extension would have been substantially completed on the completion of the works that took place up to and including 3 May 2019.
13. For the above reasons, I conclude on the balance of probability that on the date the enforcement notice was issued no enforcement action could be taken in respect of the breach of planning control alleged. Accordingly, the ground (d) appeals should succeed.

Conclusions

14. For the reasons given above, I conclude that the appeals should succeed on ground (d). The enforcement notice will be quashed.

15. In these circumstances, the appeals on grounds (f) and (g), the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.

Formal Decision

16. The appeals are allowed and the enforcement notice is quashed.

APPEAL D

Preliminary Matter

17. Since the appeal was made, the National Planning Policy Framework has been published in December 2023 (the Framework). This replaces the former version, which has been referred to in evidence by the parties. Whilst paragraph numbering might have changed, there have been no changes to the guidance referred to by the parties. Accordingly, it was not necessary to seek the parties' views on the replacement guidance document.
18. On a separate matter, I sought confirmation from the parties on whether or not a separate condition of the 00/P/1885/F planning permission had been discharged. I also sought their views on the wording of a replacement condition. I have had regard to the comments received in determining this appeal.

Main Issues

19. The reason for the condition refers to the effect of any additional development on the integrity and appearance of the appeal property. The reason for the refusal of the application subject of this appeal goes further than this, and suggests that the condition is necessary in order to avoid inappropriate and disproportionate extensions to the dwelling that would harm the Green Belt and rural character of the open countryside.
20. Having regard to the above, the main issues in this case is the effect that removing the condition would have on the character and appearance of the property and the surrounding area, and on the openness of the Green Belt.

Reasons

Background

21. Condition 3 of the 00/P/1885/F planning permission means that the permission ordinarily granted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 Order) for extensions or external alterations to the dwelling would not apply to the appeal property. This would include those granted by reason of Part 1, Article 3 of Schedule 2 of the 2015 Order under Class A (enlargement, improvement or other alteration of a dwellinghouse), Class AA (enlargement of a dwellinghouse by construction of additional storeys), Class B (additions etc to the roof of a dwellinghouse), Class C (other alterations to the roof of a dwellinghouse), and Class D (porches).
22. In certain parts of the decisions I have, for ease of reference, referred to 'permitted development rights'. By this I mean the permission that is deemed to have been granted by the above Classes of the 2015 Order.

23. The Framework advises at paragraph 56 that 'planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects'. Paragraph 017 of the Planning Practice Guidance on the Use of planning conditions (the PPG) informs that 'conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity'.
24. Both parties refer in evidence to the original dwellinghouse that dates from the 17th century. The planning history shows that the 00/P/1885/F planning permission granted consent for alterations and the extension of the original dwellinghouse on the site. There is no suggestion that what was permitted was the replacement of the original dwellinghouse with the construction of a new dwellinghouse, as is the case in some of the appeal decisions that have been drawn to my attention. Also, there is no dispute that the permitted works were carried out. Accordingly, what exists on site is the original dwellinghouse, that has been extended and altered.

Green Belt

25. As noted by the parties and by some of the Inspectors whose decisions I have before me, the permission granted by Class A, AA and B of Part 1, Article 3, Schedule 2 of the 2015 Order is either qualified or removed for development on Article 2(3) land. Article 2(3) land is defined in the 2015 Order as including land within a conservation area, an area of outstanding natural beauty (now National Landscapes), a National Park, and a World Heritage Site. Importantly, the list does not include land within the Green Belt.
26. For this reason, I can agree with the point made by some of my colleagues, that it was clearly the intention to allow dwellinghouses within the Green Belt to benefit from the same provisions of the 2015 Order as dwellinghouses located on land outside of it. I cannot, however, agree that all enlargements to dwellinghouses within the Green Belt permitted by the 2015 Order are neither inappropriate nor harmful to its openness. I say this because I am not aware of any support for this approach in National policy or guidance.
27. Nevertheless, the above leads me to conclude that the location of the appeal property within the Green Belt is not reason alone to find it reasonable or necessary to remove some of the benefits of the 2015 Order that this property would otherwise enjoy. Notwithstanding this, I must consider whether there are other reasons in this case for withdrawing those benefits.
28. The subject condition prohibits extensions and external alterations. I have sympathy with the appellants' case, that certain external alterations permitted by the 2015 Order would not harm the openness of the Green Belt. Indeed, the Council's case with regard to the matter of the Green Belt concentrates on harm that might be caused by the further enlargement of the original dwellinghouse, rather than alterations to it. Whilst the alteration of the dwellinghouse is more relevant to the matter of character and appearance, which I will come to, no examples of external alterations to the dwellinghouse have been drawn to my attention that might cause harm to the Green Belt, and none are obvious to me.
29. As for the matter of extensions, whilst the condition uses the word 'extensions', I am satisfied that this equates to any enlargement that might be permitted by

the Classes of Part 1, Article 3 of Schedule 2 of the 2015 Order I have referred to above. The subject condition was imposed on the 00/P/1885/F planning permission that not only permitted a two-storey side extension, but also the alteration and enlargement of the roof of the original dwelling. There is nothing to suggest that the permitted scheme, including the enlargements to the original dwellinghouse, would have otherwise been permitted by the former version of the 2015 Order.

30. The Council suggest that 'the permitted extensions had all but reached the limit specified in the Green Belt policy for what would constitute a disproportionate addition'. In short, it is the Council's case that anything more than existing is likely to cause harm to the openness of the Green Belt and should, therefore, be controlled.
31. With regard to the policy referred to by the Council, the Framework informs that the extension or alteration of a building in the Green Belt is not inappropriate, provided that it does not result in disproportionate additions over and above the size of the original building. Policy DM12 (Development within the Green Belt) of the North Somerset Council Development Management Policies Sites and Policies Plan Part 1, adopted July 2016 (DMP) informs that an extension will not normally be regarded as disproportionate provided it does not exceed 50% of the gross floor area of the original building. The Policy also indicates the other matters that are to be taken into account in determining planning applications. These include bulk, height, floorspace, siting, and overall scale of development.
32. If additions to a dwellinghouse are disproportionate when compared to the original, they are inappropriate and, by definition, harmful to the Green Belt. If not disproportionate, both national and local policy acknowledge that enlargements to a dwellinghouse would not be harmful to the essential characteristics of the Green Belt. The above policy assists in determining whether or not anything more than what exists on site would cause harm to the openness of the Green Belt and, thereby, justify the retention of the condition.
33. In this regard, the Council has calculated that the permitted extension has increased the gross floor area of the original dwelling by around 41%. In addition to this is the single storey rear extension, which I have found to be lawful. The Council estimate that, combined, these result in a 64% increase in the floor area of the original dwellinghouse, which is a figure that is not disputed by the appellant.
34. Although the existing enlargements to the dwellinghouse exceed the 50% figure referred to in Policy DM12, this is not an absolute limit to development, as suggested by the Council. Regard must also be had to the other factors referred to in the Policy. Whilst the dwelling is in an isolated location, the Council point to the footpaths that adjoin the site, which allow the property to be viewed from various public vantage points. This includes from the front of the property where the two storey side extension is clearly legible and the side profile of the roof additions can be viewed. The side extension has added a substantial percentage to the gross floor area of the property and the roof additions have added bulk to the original building.
35. The rear extension is not as visible as the above additions. Nevertheless, this adds a substantial percentage to the floor area of the original dwellinghouse

and contributes to the sprawl of development on site. Altogether, the existing enlargements to the original dwellinghouse are at least at the limit of what might be regarded as not disproportionate.

36. The Council has provided a calculation of the enlargements to the dwellinghouse that might be permitted by the 2015 Order, should the condition be lost. Whilst it may not be the appellant's intention to undertake such extensive extension works, I cannot be satisfied that further enlargements to the property will not be carried out. I say this, having regard to the large outbuilding I observed on my site visit, which I am told requires the benefit of planning permission, but is not permitted. This indicates a want for additional accommodation at the appeal site.
37. I acknowledge that, in the case of any other dwellinghouse in the Green Belt that is not subject of a condition similar to condition 3, enlargements permitted by the 2015 Order might well exceed the 50% figure referred to in Policy DM12. However, in the case before me the original dwellinghouse has already been extended with development granted permission outside of the permitted development regime. To allow the normal operation of the permitted development rights for the enlargement of the dwellinghouse in addition to the enlargements that have been granted planning permission would, in my judgement, cause harm. There is, therefore, justification for the need to continue the control imposed by the condition.
38. In finding as I have above, I have had regard to the appeal decisions that have been drawn to my attention. The appeal decision reference APP/P3420/W/18/3201127 relates to a replacement dwelling in the Green Belt. In that case the Inspector notes from the Council's case that the overall built form of the replacement dwelling was less than the existing, taking into account the demolition of existing outbuildings. As such, the starting point for the Inspector's consideration (i.e. the base line) was a replacement dwellinghouse that was smaller than the built form that previously existed.
39. In this respect, this case is different to that before me, where the starting point of my consideration is of an original dwelling that has already been substantially enlarged with development, if not all, the vast majority of which would not have otherwise been permitted by the 2015 Order. Other than the replacement of a small side extension, I have not been told that these enlargements have replaced other extensions or outbuildings. Furthermore, unlike the case before me, the Inspector says that they have no evidence of what might be permitted, should the condition in question be removed.
40. Appeal decision reference APP/K3415/W/18/3208240 relates to a condition of a planning permission for the conversion (change of use) of agricultural buildings to a dwelling and garage. Very little detail is provided in this of the existing development that formed the basis of the Inspector's decision. Unlike the case before me, I see no reference to any additional enlargements to the form of the buildings subject of the permitted change of use. The Inspector's decision is based on the principle that the location of the dwellinghouse within the Green Belt is not a sufficient reason alone to withhold the benefits of the 2015 Order. I have agreed with him in this regard.
41. Finally, having regard to the appeal decision reference APP/Z4718/W/21/3268030, I agree, as I have done above, with the Inspector, that 'permitted development rights for dwellings in the Green Belt are

intentionally no different to those available outside of the Green Belt'. I note that the Inspector refers to the property having been previously extended. In this regard, the planning permission that is the subject of that decision was for the 're-use, **extension** and adaptation of redundant barn to form dwelling'. I have emphasised the word 'extension' as this suggests that the development permitted had a greater volume than what it replaced. There is, however, insufficient detail in this decision of the existing development that formed the basis of the Inspector's decision, such that I can make an informed comparison with the case before me.

42. Nevertheless, before concluding the Inspector notes the lack of opposition from the Council to the removal of a condition of a previous planning permission (I assume for development on the same site), indicating that they have no reason to disagree with this. This indicates the lack of any justification for the condition that was the subject of that appeal.
43. In addition to the above, in reaching their conclusion the Inspector relies on advice in the previous version of the Framework, which was that exceptional circumstances must apply for the removal of permitted development rights. This advice is not, however, repeated in the current version of the Framework, which is that conditions should be kept to a minimum and should comply with the tests set out in the PPG.
44. I acknowledge that the PPG gives specific advice about conditions restricting permitted development rights. I am, however, satisfied that in the case before me there is good reason to find such intervention both necessary and reasonable.
45. Whilst not exactly the same, the circumstances of the case before me are comparable to those set out in the appeal decisions referred to by the Council in which the Inspectors retained the subject conditions. The permission subject of appeal reference APP/M1520/W/21/3283305 was for a replacement dwelling that was larger than what had previously existed. The Inspector notes, that 'the replacement dwelling, was of a size which took into account both the building it replaced and the permitted development rights which would have been open to the homeowner had they chosen to extend the original property'. As for the appeal reference APP/T0355/W/20/3248054, permission had been granted for the retention of dwellings that were larger than the dwellings that had previously been permitted.
46. I say that these cases are comparable because the starting point for the Inspectors' consideration in those appeals was development that had been permitted taking account of (and, therefore, essentially comprising) either the original dwellinghouse or the originally permitted dwellinghouse, in addition to other enlargements. Accordingly, my conclusion, that there is justification for the retention of the condition in so far as it relates to extensions, is consistent with the Inspectors' conclusions in those cases.
47. To conclude on this first main issue, the removal of the condition in question, in so far as it relates to extensions, would have an unacceptable effect on the openness of the Green Belt.

Character and Appearance

48. The reason for the imposition of the condition refers to the wish of the Council to retain control 'in order to maintain the integrity and appearance' of the development. Whilst the building is not listed, the Council suggest that it is a non-designated heritage asset. It is not, however, within a conservation area and I have not been advised that its significance has been assessed or recorded in any historic environment record, as encouraged by paragraph 198 of the Framework.
49. The Council have brought Policy DM7 (Non-designated heritage assets) of the DMP to my attention. I acknowledge that the supporting text advises that not all non-designated heritage assets will be identified in advance and that their significance will be assessed when they are subject of applications for development. The supporting text points to the advice of Historic England on local heritage listing. Both the most up to date Heritage England document on this matter and the Planning Practice Guidance on the Historic environment provide advice on carrying out such an assessment and inform that heritage interest may be archaeological, architectural, artistic or historic.
50. Despite the above, the Council has provided little explanation in its evidence of the reasons for suggesting that the building is a non-designated heritage asset. It says that the original dwelling is dated from the 17th century, and that it is 'a traditional farmhouse built in stone and typical vernacular design for that period'. I acknowledge that the original 17th century building may still be legible to a degree and may still provide a reminder of the historic rural environment of the area. I do not, however, have sufficient evidence before me to conclude that the building is of heritage interest. Such evidence might include the history of the property, who its occupiers might have been, its important architectural features, or its association with other buildings of heritage interest in the area.
51. The building has already been substantially extended and altered, including the addition of a two storey extension, substantial changes to the roof of the original dwelling, new window openings and the rear extension that is the subject of Appeals A, B and C. All of this may have had an effect on the heritage interest of the building.
52. Notwithstanding the above, the age of the building is not reason alone to impose additional measures of control for any alterations or enlargements to it, other than those that exist within the permitted development regime. The building falls outside of any statutory protection, and a non-designated heritage asset does not fall within the definition of Article 2(3) land (as defined in the 2015 Order). As with buildings within the Green Belt, it was clearly the intention to allow dwellinghouses that are non-designated heritage assets to benefit from the same provisions of the 2015 Order as any other dwellinghouse.
53. Accordingly, I have insufficient evidence to conclude that the planning permissions granted by the 2015 Order would allow development that would be harmful to the significance of a non-designated heritage asset. I conclude as such, despite the location of nearby footpaths which allow certain views of the property from public vantage points. I am also mindful of my conclusions above, with regard to the likelihood of the further enlargement of the building to the extreme of what would be permitted by the 2015 Order.

54. Having regard to all of the above, including the provisions of Policy DM7 of the DMP, and without the information necessary for me to undertake a meaningful assessment of the significance of the building, I am unable to conclude that the subject condition is needed to prevent harm to the integrity and appearance of the development, or the contribution the building makes to the character and appearance of the surrounding area. Removing the condition would not, therefore, have a harmful effect on the character and appearance of the property and the surrounding area.

Overall Summary on the Main Issues

55. I have concluded that the withdraw of permitted development rights for external alterations to the dwellinghouse are neither reasonable nor necessary. I have not, however, concluded the same with regard to extensions, as referred to in condition 3 of the 00/P/1885/F planning permission. The removal of the controls imposed by the conditions for extensions would cause harm to the openness of the Green Belt, in conflict with DMP Policy DM12 and the Framework.

Other Matters

56. I acknowledge that the removal of the condition in its entirety would be of benefit, should the appellant or future occupiers wish to alter the dwellinghouse in the future. This would not, however, benefit anyone other than an owner or occupier of the dwellinghouse. It is not, therefore, sufficient to outweigh the harm I have identified, should the condition be removed.

Conditions

57. As the appeal succeeds in part, a new planning permission will be granted. I will vary condition 3 of the 00/P/1885/F planning permission to remove reference to external alterations. I have not re-imposed condition 1 as there appears to be no dispute that the development has at least commenced on site. Condition 2 will, however, be re-imposed, for the avoidance of any doubt, should there be elements of the original permitted scheme yet to be completed. However, in the interests of clarity, I have included in the new condition reference to the site plan and drawing numbers that are quoted later in the 00/P/1885/F decision as forming the basis of the Council's approval.
58. I am unable to re-impose conditions 4 and 5 as both refer to the development beginning or taking place. This is because the development has commenced and the appellant could not, therefore, comply with the conditions. I am not, however, able to grant permission without these conditions, as I have not been advised that both landscaping and drainage are matters that have been dealt with to the satisfaction of the Council.
59. I am satisfied that condition 4 can be reworded to simply require the drainage to be carried out in accordance with a scheme to be submitted, without any trigger for the submission of the necessary details. I conclude as such, satisfied that the development is unlikely to have been constructed without any drainage whatsoever. In the event that the original condition had, in fact, been discharged, this is a matter which can be addressed by the parties amongst themselves.
60. I am unable to take the same approach with condition 5 as the development is not dependant on landscaping, rather it is a matter of good design that might

only be necessary to mitigate and/or enhance the effect of the permitted scheme. I asked the parties for their comments on an alternative form of condition, which would adequately deal with the matters that are the subject of both conditions 5 and 7 (the latter setting out when the approved landscaping scheme should be implemented). The suggested condition would provide certainty for the submission of a scheme and its implementation.

61. I have imposed the alternative condition, having regard to the comments received. I have not, however, included the additional wording suggested by the appellant as the development is that described in the formal decision.
62. Finally, with regard to condition 6, I have varied this to take account of the more standard wording of such conditions. I have, however, imposed the same term (i.e. 10 years) and the same trigger for this term to begin.
63. The new conditions are both reasonable and necessary, in the interests of ensuring adequate drainage, and to protect and enhance the character and appearance of the site.

Conclusion

64. For the reasons given above I conclude that the appeal should succeed in part. This will mean that in the formal decision I will state that the appeal is allowed. I will grant a new planning permission, but with the disputed condition varied. I will also restate, with variations, some of the undisputed conditions that are still subsisting and capable of taking effect.

Formal Decision

65. The appeal is allowed in part and planning permission is granted for the restoration of the existing house together with a new extension to form a 4 bedroom dwelling at Linden Grove, The Batch, North Somerset, Butcombe BS40 7UY in accordance with application, Ref 22/P/2253/FUL, dated 16 September 2022, without complying with condition number 3 previously imposed on planning permission Ref 00/P/1885/F, dated 11 January 2001 and the plans submitted with it, and subject to the following conditions:
 - 1) Notwithstanding 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), no extensions to the dwellinghouse shall be erected other than those expressly authorised by this permission.
 - 2) The development shall be carried out in accordance with the Location Plan 1:2500 Site Location Plan and with Drawings No. 1036/01, 1036/02, 1036/03, 1036/04, 1036/05 and 1036/06.
 - 3) The development hereby permitted shall be removed and all materials resulting from the demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for the landscaping of the site shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

- ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Any trees, hedging or plants which within a period of 10 years from the completion of the approved landscaping scheme, are removed, die, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Drainage works shall be carried out in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority.

J Moss

INSPECTOR