



Appeal Decision

Site visit made on 6 March 2024

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 May 2024

Appeal Ref: APP/N3020/W/23/3323910

Ridgewood, Newstead Abbey Park, Nottingham Road, Ravenshead, Nottinghamshire NG15 8GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr Robert Smith against the decision of Gedling Borough Council.
- The application Ref 2022/1242 was approved on 18 May 2023 and planning permission was granted subject to conditions.
- The development permitted is the demolition of existing outbuildings, corridor, conservatory and part of dwelling. Proposed rear single storey extension, front double storey entrance extension, alterations to the existing roof. Erection of new detached garage.
- The condition in dispute is No 8 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of; Class A: The enlargement, improvement or other alteration of a dwellinghouse; Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof; Class C: Any other alteration to the roof of a dwellinghouse; Class D: Porches; Class E: buildings etc. incidental to the enjoyment of a dwellinghouse; Class F: hard surfaces; nor shall means of enclosure be erected as outlined under schedule 2, Part 2 of the Order; unless consent has firstly be granted in the form of a separate planning permission.*
- The reason given for the condition is: *To ensure that the openness of the Green Belt is respected and to comply with guidance within the NPPF (2021).*

Decision

1. The appeal is allowed and the planning permission Ref 2022/1242 for the demolition of existing outbuildings, corridor, conservatory and part of dwelling. Proposed rear single storey extension, front double storey entrance extension, alterations to existing roof. Erection of new detached garage at Ridgewood, Newstead Abbey Park, Nottingham Road, Ravenshead, Nottinghamshire NG15 8GD granted on 18 May 2023 by Gedling Borough Council, is varied by deleting condition No 8 and substituting it with the following condition:
 - 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of; Class A: The enlargement, improvement or other alteration of a dwellinghouse; Class D: Porches; Class E: buildings etc. incidental to the enjoyment of a dwellinghouse; unless consent has firstly been granted in the form of a separate planning permission.

Preliminary Matters

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the revised version.
3. At the time of my site visit works were being carried out. For clarity, I have considered the appeal based on the development applied for and the plans submitted with it.
4. The address on the application form is Newstead Abbey Park, Ridgewood. I have used the address on the appeal form in the banner heading above, as it is more accurate.

Background and Main Issue

5. The Council state that the disputed condition was imposed as part of planning approval Ref 2022/1242 (the approved scheme) to ensure that the openness of the Green Belt is respected and to comply with the Framework. The appellant contends that the condition is not reasonable or necessary and therefore seeks to remove the condition.
6. Therefore, the main issue is whether the disputed condition is reasonable and necessary in the interests of protecting the openness of the Green Belt.

Reasons

7. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. The most recent version of the Planning Practice Guidance¹ (PPG) states that such a condition may not pass the tests of reasonableness or necessity, including in respect of small-scale domestic alterations, and the scope of such conditions needs to be precisely defined.
8. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) does not distinguish between land within or outside the Green Belt. As such, there is no requirement to consider whether proposals that are permitted development are inappropriate development or the effect on openness.
9. Policy LPD 13 of the Gedling Borough Local Planning Document Part 2 Local Plan Adopted July 2018 (LP) states, among other things, that within the Green Belt planning permission will be granted for extensions or alterations to buildings provided the proposals do not result in the floorspace of the building being over 50% larger than when originally constructed or as it existed on 1 July 1948.
10. The Framework establishes that new buildings within the Green Belt should be regarded as inappropriate development. There are exceptions to this, including paragraph 154 c) which allows for the extension or alteration of a building

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

provided that it does not result in disproportionate additions over and above the size of the original building. Both LP Policy LPD 13 and the Framework require an assessment to be undertaken in respect of the original building only.

11. Ridgewood is a detached dwelling, with several outbuildings, located within a large plot. Based on the evidence submitted, Ridgewood has previously been extended and is now substantially larger than the original building.
12. It is common ground between the parties that the approved scheme would consolidate and reduce the built form within the appeal site, in comparison with the previously extended dwelling. While there would be a notable reduction in the floorspace of Ridgewood, as a result of the approved scheme, there would be a more minimal reduction in respect of the dwelling's volume. However, taken as a whole, the approved scheme would have a lesser impact upon the openness of the Green Belt, than compared with the extended form of Ridgewood. The Council granted consent for the approved scheme on this basis.
13. Although the approved scheme would reduce the built form within the appeal site, it would, nevertheless, still result in a significant increase above the size of the original building. The floorspace of the approved scheme would be significantly over the 50% threshold stipulated by LP Policy LPD 13 and the volume of the original building would be substantially extended. This is clearly demonstrated within the evidence submitted, including the Green Belt Impact Assessment.
14. Turning to the disputed condition, the Council imposed this to ensure the openness of the Green Belt was preserved, given that the approved scheme significantly exceeded the floorspace threshold within LP Policy LPD 13.
15. Schedule 2, Part 1, Classes A, D and E of the GPDO, allows for work to be carried out to a dwellinghouse, including the enlargement, improvement or other alteration of a dwellinghouse, porches and buildings etc incidental to the enjoyment of a dwellinghouse.
16. The size of the appeal site lends itself to accommodating potentially sizeable extensions and ancillary buildings of meaningful footprint and volume. When combined with the approved scheme, these have the potential to constitute disproportionate additions over and above the size of the original building. In this regard, there is clear justification for the removal of these specific Classes. Therefore, it is reasonable and necessary for the condition to restrict permitted development rights in relation to Classes A, D and E of the Order, to enable the Council to consider any such future proposals upon the Green Belt.
17. The rights that fall within Schedule 2, Part 1, Classes B and C relate to additions etc to the roof of a dwellinghouse and any other alteration to the roof of a dwellinghouse. While noting the Council's concerns in respect of the site's Green Belt location and future extensions adding to the size of Ridgewood, the approved scheme has a flat roof. Having regard to this and the criteria within Classes B and C, any future work that could be carried out would be constrained. As such, it was onerous to apply restrictions under these Classes.
18. The disputed condition also seeks to restrict the provision of hard surfaces incidental to the enjoyment of a dwellinghouse, as detailed under Schedule 2, Part 1, Class F, and means of enclosure, detailed within Schedule 2, Part 2. The

Council's reasoning relates primarily to future works to extend Ridgewood, in light of the approved scheme and the floorspace restriction contained within LP Policy LPD 13. Works in respect of hard surfaces and means of enclosure would not add to the floorspace of the original dwelling. In view of this, and given the Framework, nor the GPDO, place any restrictions on permitted development within the Green Belt, I am not persuaded that the removal of rights in respect of these matters is reasonable or necessary.

19. An appeal decision² and planning decision³ have been drawn to my attention. While these schemes were also within the Green Belt, the appeal decision relates to the conversion of a barn to a dwelling and the planning decision comprises an outline planning application for up to 14 new dwellings. As such, these cases are not directly comparable. Therefore, I am not satisfied that the circumstances of these cases are similar to the appeal scheme such that it would warrant me reaching a different conclusion on the disputed condition in this case. In any case, I have considered the appeal on its own merits.
20. Notwithstanding my findings in respect of whether the disputed condition is reasonable or necessary, I find that it is drafted in a precise manner and is enforceable.
21. For the above reasons, the disputed condition is reasonable and necessary in the interests of protecting the openness of the Green Belt insofar as it relates to enlargements and alterations that can be carried out under Schedule 2, Part 1, Classes A, D and E of the GPDO. However, it is not reasonable and necessary insofar as it relates to additions and alterations to the roof, the provision of hard surfaces and means of enclosure. Therefore, the variation of the condition, by omitting reference to Schedule 2, Part 1, Classes B, C and F and Schedule 2, Part 2 would ensure compliance with LP Policy LPD 13 and with the Framework. Collectively, these seek, among other things, to protect the openness of the Green Belt.

Other matters

22. The appellant alleges that imposing a condition restricting certain permitted development rights would be in breach of the Human Rights Act 1998, specifically Article 1 of the First Protocol and Article 8, which relate to the right to respect for private and family life and the peaceful enjoyment of their possessions. However, these are qualified rights and interference with them in this instance, through varying the planning permission and imposing a revised condition, would accord with the law and be in pursuance of a well-established and legitimate aim, the protection of the Green Belt.
23. It has been highlighted that the disputed condition restricts the painting of the outside walls of a building. However, such works fall within Schedule 2, Part 2, Class C of the GPDO, which is not referenced within the disputed condition.
24. While there is dispute between the parties whether the appeal site falls within a Site of Interest for Nature Conservation, this is not relevant to the main issue.

² Appeal decision reference APP/W4223/W/15/3100603

³ Council planning reference 2016/0306

Conclusion

25. For the reasons given above the appeal should be allowed. The planning permission is varied by deleting the disputed condition and substituting it with a revised condition.

S Pearce

INSPECTOR