



Appeal Decision

Site visit made on 30 October 2024

by S Hartley BA (Hons) Dist.TP (Manc), DMS, MRTPI, MRICS

an Inspector appointed by the Secretary of State

Decision date: 6 November 2024

Appeal Ref: APP/N4205/D/24/3346033

Hilton House Bungalow, 694 Chorley Road, Westhoughton, Bolton, BL5 3NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the inclusion of conditions upon a planning approval.
- The appeal is made by Mrs Sue Davies against the decision of Bolton Council.
- The application Ref 17758/24 was approved and planning permission was granted subject to conditions.
- The development permitted is for a detached dwellinghouse.
- The conditions in dispute are No.1 which states that *'notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no extensions, garages or outbuildings shall be erected within the curtilage of the dwellinghouse hereby approved, and No.2 which states that 'notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no dormers shall be erected within the roof space of the dwellinghouse'.*
- The reason given for the conditions is: *'to preserve the character and appearance of the site and surrounding area and the openness of the Green Belt in accordance with policy CG7AP of Bolton's Allocation Plan, policies JP-G9 and JP-P1 of Places for Everyone and Section 13 of the NPPF'.*

Decision

1. The appeal is dismissed.

Background

2. Planning permission was granted on appeal under Ref: APP/N4205/A/08/2062347 dated 4 June 2008 for the change of use of a detached summer house/garden room into a detached dwelling and which has been constructed.
3. The appeal was allowed subject to conditions removing certain permitted development rights relating to porches, garages or outbuildings, and rooflights/dormer windows. (Conditions 2 and 3)
4. Planning application 17758/24 sought the continuation of the development approved under the 2008 appeal, but with the deletion of those conditions removing permitted development rights. The appellant was partly successful in terms of the application (i.e. 17758/24) in so far that the local planning authority (LPA) approved the planning application made under section 73 of the Act. However, in so doing, and while it amended the original conditions by

removing the restriction of permitted development rights with regard to porches and rooflights, it otherwise retained the conditions imposed upon the earlier appeal decision of 2008. (Conditions 1 and 2)

5. It is the imposition of conditions 1 and 2 of planning ref: 17758/24 which is the subject of this appeal, as confirmed in the appellant's appeal statement, and which removes permitted development rights under the GPDO, with reference to extensions, garages and outbuildings (condition No 1) and dormer windows (condition No 2). I have referred to these two conditions in the banner heading.

Main Issue

6. The main issue is whether conditions No's 1 and 2 of planning permission ref:17758/24 are reasonable and necessary.

Reasons

7. The National Planning Policy Framework 2023 (the Framework), at paragraph 56, states that planning conditions should be kept to a minimum and only 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 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

8. The appeal site falls within land designated as Green Belt. I have considered the Inspector's Decision Letter and the reasons for imposing the conditions limiting permitted development rights and where the inspector states:

'The restriction of permitted development rights for extensions and outbuildings is necessary and reasonable in the light of PPG2 guidance that strict control should be exercised over the extension of re-used buildings and over any associated uses of land which might conflict with the openness of the green belt. The existing summerhouse shows that quite large buildings, with potential implications for openness could be erected under permitted development rights. The summerhouse does not itself already enjoy permitted development rights as a dwelling house.

I do not consider it reasonable to control the creation of further openings in the building as no clear harm would be caused. Control of the insertion of dormer windows and roof lights, where the effects on living conditions at the existing property should be subject to assessment, and over alterations or additions to the roof, which might have implications for openness is reasonable and necessary'.

9. Thus, conditions were imposed to safeguard the openness and visual amenity of the Green Belt and in order to approve development which would otherwise not be acceptable.
10. The appellant considers that amendments to the GPDO have been made since planning permission was approved and which widen permitted rights and hence it is claimed that a more flexible approach should be taken to their limitation or removal. However, Green Belt policy and the need to protect openness in particular remains essentially the same, as do the six tests for the imposition of conditions. The effect of any such changes to the GPDO does not mean that there can be no circumstances which justify the removal of national permitted

development rights in the Green Belt, particularly where there is clear planning policy justification to do so.

11. I note the various appeal decisions appended to the appellant's statement of case. I recognise that some Inspectors have taken the view that the removal of permitted development rights in the Green Belt is not generally necessary or clearly justified. However, while that may sometimes be the case, I have determined this appeal upon the facts and circumstances which led to the appeal being allowed in 2008 and when the Inspector felt it necessary to impose conditions to make the proposed development acceptable.
12. I find no persuasive evidence before me to indicate that the reasons for the initial imposition of the conditions have changed, even though the LPA now considers that minor relaxations to the fine detail of such conditions would be reasonable. I do not disagree with the conditions as imposed on planning permission 17758/24. They are necessary and justified based on the evidence that is before me.

Conclusion

13. For the reasons outlined above, I conclude that condition No's. 1 and 2 of 17758/24 are reasonable and necessary. In this case, there is clear justification for retaining the conditions as worded. Therefore, the appeal should be dismissed.

S Hartley

INSPECTOR