



Appeal Decision

Site visit made on 5 November 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2024

Appeal Ref: APP/P2365/W/24/3344045

Ladys View, Ladys Walk, Westhead, Ormskirk L40 6HX

- 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 Neil Macfarlane against the decision of West Lancashire Borough Council.
- The application Ref 2024/0156/FUL was approved on 23 April 2024 and planning permission was granted subject to conditions.
- The development permitted is demolition of outbuilding (the shippon) and erection of a detached dwelling.
- The condition in dispute is No 7 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and/or re-enacting that Order) the following forms of development within the provisions of Part 1 to Schedule 2 of the Order shall not be undertaken without the express permission in writing of the council:
 - 1. extension or enlargement; and
 - 2. detached outbuildings.
- The reason given for the condition is: The further extension or alteration of this dwelling or erection of detached buildings requires detailed consideration to safeguard the openness of the Green Belt and the setting of the listed building and to comply with the provisions of Policy GN1(b) of the West Lancashire Local Plan 2012-2027 and the National Planning Policy Framework - Protecting Green Belt Land and Policy EN4 of the adopted West Lancashire Local Plan 2012-2027.

Decision

1. The appeal is allowed and the planning permission Ref 2024/0156/FUL for the demolition of outbuilding (the shippon) and erection of a detached dwelling at Ladys View, Ladys Walk, Westhead, Ormskirk L40 6HX, granted on 23 April 2024 by West Lancashire Borough Council, is varied by deleting conditions 7 and 11.

Applications for costs

2. An application for costs was made by Mr Neil Macfarlane against the decision of West Lancashire Borough Council. This is the subject of a separate decision.

Preliminary Matters

3. The description in the banner heading is taken from the original application of 2020/0310/FUL. Application 2024/0156/FUL, the subject of this appeal, does not include an accurate description of the development, but discusses the variation of condition 8 as requested in that application. The description in the banner heading must refer to the development, needs to be clear and not just a detail of which condition has been requested to be removed or varied. I have therefore utilised the original description of development for clarity.

4. Planning permission was granted for the demolition of a large domestic outbuilding and the erection of a detached dwelling (the original permission). A subsequent application was approved to vary the planning conditions (2021/0682/FUL), including the approved plans. This included condition 8, which removed the permitted development rights for the property from Schedule 2, Parts 1 (A to F) and 2 (A to B) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The reason for this was to exercise control over future development to protect the openness of the Green Belt and to preserve the setting of the special architectural and historic character of a listed building.
5. The application the subject of this appeal was submitted to remove condition 8. The Council however only modified the condition, retaining the restrictions on the provision of extensions and outbuildings within the site. In doing so, the condition number changed to No 7. While the appellant has referred to condition No 8, it is clear that the correct number to be found on the permission granted by the Council is actually No 7, so I have therefore determined the appeal in relation to that condition. The appellant seeks the removal of condition 7, on the grounds that it is not reasonable or necessary to remove the permitted development rights for the property, with particular regard to outbuildings and extensions. The reason given by the Council for the inclusion of condition 7 is that any further extension or alteration of this dwelling requires detailed consideration. This is to safeguard the openness of the Green Belt and the setting of the listed building.
6. The appellant states the development has been substantially completed but, during my site visit, while I observed the new dwelling had been erected and appeared largely complete, the site was not landscaped and works were evidently on-going.
7. A Grade II listed building is located next to the appeal site, known as 'Shippon-barn range approx. 200m NE of Cross Hall Farmhouse (not included)'. I have therefore had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), and herein referred to as 'Shippon and Barn Range'.
8. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes. Neither main party were asked for their views and no parties have been prejudiced as a result.

Main Issues

9. The main issues are whether the condition is reasonable or necessary in the interests of preserving a) the setting of the Grade II listed building; and b) the openness of the Green Belt.

Reasons

Listed building

10. Shippon and Barn Range has a close relationship with the appeal site and Ladys View. Its significance derives from its historical interest, dating back from the 17th century and its architectural interest through the use of sandstone, with designed features such as a segmental-arched waggon doorway and the detailing around its lower windows and doors. The open setting and visibility of both the

front of the listed building and views from it into the wider area, make an important contribution to the significance of the building. The appeal site to its side and the spacing between the two properties however makes a limited contribution to how the significance of the Listed Building is appreciated.

11. The Council has stated that permitted development rights would enable outbuildings or extensions to be created which may result in an inappropriate change to the setting of the listed building.
12. While no specific details of an extension or outbuilding addition are before me, the defined residential curtilage of the dwelling is small. This itself would limit the position and size of any outbuildings or extensions constructed within it. Additionally, they would be limited by the GPDO by means of their height, general size and being incidental to the enjoyment of the dwellinghouse. While any outbuildings or extensions to the appeal property would be likely to be experienced within the open setting of the listed building, given the above considerations, it is likely that its setting would be preserved. Such development within the setting of the listed building would therefore not be harmful to how its significance is understood.
13. I therefore conclude that the disputed condition is not reasonable, nor is it necessary in the interests of preserving the setting of the Grade II listed building. As such, there would be no conflict with Policy EN4 of the West Lancashire Local Plan 2013 (LP), which states that there will be a presumption in favour of the conservation of designated heritage assets.

Green Belt

14. Ladys View is a detached building which is situated within a small designated red line boundary. It is the end dwelling in a line of dwellings along Lady's Walk. The Council set out their concern, in that the land beyond the appeal property is open land within the Green Belt, and any extensions or outbuildings would have the potential to adversely impact on its openness.
15. The GPDO does not seek to limit the rights enjoyed through it for properties in the Green Belt. In following the National Planning Policy Framework however, it is also set out that permitted development rights can be restricted through the use of planning conditions. This is on the provision that there is a clear justification for doing so.
16. In exercising permitted development rights under the GPDO, any development would be limited to the red line boundary of the site, which I have already referred to as being limited in size. Accordingly, any development undertaken would also be limited. In addition, owing to the residential boundaries of the site and wider area, residential paraphernalia is already evident at other properties. The provision of outbuildings or extensions which would be limited by the provisions of the GPDO would not look unusual in this context. Therefore, I do not consider that the construction of an outbuilding or extension within the site would be harmful to the openness of the Green Belt.
17. For these reasons, I conclude that the disputed condition is not reasonable or necessary in the interests of preserving the openness of the Green Belt. As such, there would be no conflict with LP Policy GN1 and the Framework. Policy GN1 of the LP states that development proposals within the Green Belt will be assessed against national policy and any other relevant local plan policies.

Other Matters

18. The appellant's final comments suggest the removal or variation to the majority of the other conditions included on the Decision Notice for the appeal application. I therefore requested the Council's comments on this matter and have had regard to its response in considering whether to vary or remove any other conditions.
19. A plans condition is justified in the interests of certainty and therefore, condition 1 has been retained. Conditions 2, 3, 4 and 5 relate to the approved materials detail, including their colour finish, for various elements of Ladys View. These conditions are necessary to retain the agreed appearance of the building permitted, so the finishes are conditioned to ensure that the materials would preserve the setting of the adjacent listed building. The same numbering is used as that found on the appeal application.
20. No changes are proposed to condition 6 which is concerned with drainage and the compliance with a strategy report. This condition is necessary to ensure that the drainage details are complied with and completed to a satisfactory manner.
21. Conditions 8 and 10 of the appeal application are concerned with vehicle parking and means of enclosure. During my site visit, it did not appear that the elements of development required to be provided by these conditions had been completed. Therefore, these conditions have not been varied in line with the appellants suggestion and remain as written on the appeal application. These conditions are necessary in ensuring that appropriate on-site parking facilities and a means of enclosure for the privacy of the occupants of the dwelling are provided.
22. Condition 9 of the appeal application requires the development to be carried out in accordance with an ecological mitigation strategy. The appellant has suggested that this can be removed as this has been complied with. However, during my site visit, I noted that the development did not appear to be finished. As such, the condition is necessary and shall remain to ensure that the development is completed fully in accordance with the mitigation strategy.
23. Condition 11 of the appeal application is concerned with the provision of an electric charging point. The Council has commented that they have no objection to its removal as the requirement to provide a charging point is now subject to the Building Regulations. This condition has been removed as it is no longer necessary.

Conclusion

24. The disputed condition would not meet the tests of being reasonable or necessary. Therefore, I conclude that the appeal should succeed, and I will vary the planning permission by deleting the disputed condition (No 7) and condition 11.

J Smith

INSPECTOR