



Appeal Decision

Site visit made on 10 December 2024

by S Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2024

Appeal Ref: APP/R0660/W/24/3351222

Faulkners Farm, Prestbury Road, Wilmslow, Cheshire SK9 2LL

- 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 David Lee against the decision of Cheshire East Council.
 - The application Ref 24/2158M was dated 10 June 2024.
 - The application sought planning permission for rebuilding farmhouse without complying with a condition attached to planning permission Ref 42202P, dated 17 April 1986.
 - The condition in dispute is No 6 which states that: 'The development hereby permitted shall be carried out in accordance with the conditions herein contained but save as aforesaid no development (as defined in Section 22(1) of the Town and Country Planning Act 1971) shall at any time hereafter be undertaken in, on, over or under the said land without express consent of the local planning authority notwithstanding that any such development might otherwise have been permitted by virtue of the Town and Country Planning General Permitted Development Order 1977 and subsequent amendment thereto'.
 - The reason given for the condition is: 'Having regard to the particular circumstances of the applicant and the location of the site within the Rural Area where there is a presumption against development except where justified by long term agricultural or forestry need'.
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Decision

1. The appeal is allowed and planning permission is granted for rebuilding farmhouse at Faulkners Farm, Prestbury Road, Wilmslow, Cheshire SK9 2LL, in accordance with application ref: 24/2158M, dated 10 June 2024, without compliance with condition No 6 previously imposed on planning permission ref 42202P dated 17 April 1986 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Preliminary Matters

2. 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, and no party would be prejudiced by my consideration of the appeal against the updated document.

Background and Main Issue

3. The existing dwelling on site, Faulkners Farm, was built as a replacement dwelling following the grant of planning permission in 1986, subject to a

number of conditions including condition 6 which, in effect, withdrew permitted development rights. The appellant sought permission for the removal of the condition and the refusal of that application has resulted in this appeal.

4. The site lies within the Green Belt although this is not mentioned in the reason for imposing the condition. However, the reason for the refusal of the application to remove the condition does relate to the openness of the Green Belt and this matter has been addressed by the appellant.
5. Accordingly, the main issue in this case is whether the condition is reasonable and necessary having regard to the openness of the Green Belt and the purposes of including land within it.

Reasons

6. The Framework sets out at paragraph 56 that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of planning conditions. It goes on to say that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise, and reasonable in all other respects.
7. There are few details of the original application or dwelling before me, no plans or officer assessment and the reason for the condition in this case is unclear. Whilst it refers to the location of the development in a rural area where there was a presumption against development, it is unclear how the personal circumstances of the appellant had a bearing on the removal of permitted development rights. Moreover, there is nothing before me to suggest that the existing house is more sizeable than the dwelling it replaced, or any other particular circumstances which might have justified the imposition of the condition at the time.
8. Notwithstanding that, the Council considers the condition to be necessary to control the spread of built form in order to preserve the openness of the Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. That aim is reflected in Policy PG3 of the Cheshire Local Plan.
9. However, paragraph 55 of the Framework, states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Planning Practice Guidance (the PPG) states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity, and that blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
10. I understand that the house has already been extended and inevitably, if the property were extended again, or outbuildings erected, there would be some impact on the openness of the Green Belt. However, any such development would be limited by the requirements and conditions of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) and any application for full planning permission would be subject to national and local planning policy. Moreover, the GPDO does not place a restriction on extensions

to dwellings within the Green Belt as it does in other designated areas including National Parks and Conservation Areas. It seems to me that had the Government intended to remove or restrict permitted development rights in the Green Belt it would have done so.

11. Based on all I have seen and read, there are no specific circumstances in this particular case that would justify a stricter approach to permitted development than exists on other dwellings in the Green Belt. On that basis the condition is neither reasonable or necessary having regard to the openness of the Green Belt and accordingly it does not meet the tests for conditions as set out above.
12. For these reasons the appeal is allowed and the planning permission is varied by the removal of condition 6.

S Ashworth

INSPECTOR