



Appeal Decision

Site visit made on 22 October 2024 by Darren Ellis MPlan MRTPI

Decision by F Wilkinson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2025

Appeal Ref: APP/M0655/W/24/3342367

The Bungalow, Stretton Road, Warrington WA4 4NW

- 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 Mrs Joan Howard against the decision of Warrington Borough Council.
 - The application Ref 2023/00049/FUL was approved on 23 October 2023 and planning permission was granted subject to conditions.
 - The development permitted is 'Demolition of existing Swimming Pool building and construction of new single storey 3-bed room bungalow with open plan lounge, dining and kitchen areas together with Bathroom and store.'
 - The condition in dispute is No 13 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 re-enacting that Order with or without modification), no extensions, enlargements, additions to the roof, porches, buildings or enclosures within the curtilage shall take place including under the provisions of Classes A, AA, B, D or E of Part 1 of Schedule 1 to Said Order unless a planning application for that development has been first submitted to and approved by the Local Planning Authority."*
 - The reason given for the condition is: *"To prevent inappropriate development in the green belt and to comply with Policy CS5 of the Warrington Local Plan Core Strategy and the NPPF."*
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Decision

1. The appeal is allowed and the planning permission Ref 2023/00049/FUL for demolition of existing swimming pool building and construction of new single storey 3-bed room bungalow with open plan lounge, dining and kitchen areas together with bathroom and store at The Bungalow, Stretton Road, Warrington WA4 4NW granted on 23 October 2023 by Warrington Borough Council, is varied by deleting condition 13 and substituting for it the following condition:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A and E of Part 1 of Schedule 2 to the Order shall be undertaken.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. Prior to the making of this recommendation, a revised National Planning Policy Framework (the Framework) was published. Both parties have had the opportunity to comment on the changes to the Framework, and I have taken their comments into consideration in my assessment.
4. Since the application was determined, but before the appeal was submitted, the Warrington Local Plan 2021/22-2038/39 (2023) (LP) was adopted. This replaced the previous Warrington Local Plan Core Strategy (2014) (LPCS), against which the original application was assessed. Both LP Policy GB1 and LPCS Policy CS5 state that development proposals in the Green Belt shall be determined in accordance with national policy. Given this similarity between the policies, and as the appellant had the opportunity to provide their comments on the LP with their submission, I have not considered it necessary to seek further comments from the parties.

Background and Main Issue

5. Planning permission was granted for the demolition of a swimming pool building and the construction of a dwellinghouse, which was at an advanced stage at the time of my site visit.
6. The appeal site is within the Green Belt. A condition attached to the permission removed permitted development rights for certain alterations and extensions to the dwellinghouse under Classes A, AA, B and D of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and for the construction of outbuildings under Class E of the GPDO, in order to prevent inappropriate development in the Green Belt. The appellant seeks to remove this condition.
7. The main issue therefore is whether the condition is necessary and reasonable having regard to the Green Belt.

Reasons for the Recommendation

8. 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. The Planning Practice Guidance (PPG) advises that restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. Permitted development rights have not been withdrawn (in total or in part) in the Green Belt, therefore, having regard to the Framework and PPG, there must be clear justification for doing so.
9. The new dwelling was found by the Council to meet the exception under paragraph 154(g) of the Framework for development in the Green Belt. The revised Framework has changed the wording for this paragraph. The requirement for the redevelopment of previously developed land to 'not have a greater impact on the openness of the Green Belt than the existing development' has now changed to 'would not cause substantial harm to the openness of the Green Belt.'
10. The appeal site is on the edge of a small cluster of dwellings along Stretton Road, with properties to the north and east. Given this setting together with the modest size of the new bungalow, an addition to the roof (Class B of the GPDO) and/or the construction of a porch (Class D) would not have a

significant effect on the openness of the Green Belt. The disputed condition is unnecessarily restrictive in this regard and such works would be acceptable in terms of their effects on the Green Belt.

11. Alterations under Class AA are not applicable to this dwelling due to its date of construction, and as such the removal of permitted development rights in this regard would be unnecessary.
12. However, large side and rear extensions could be constructed under the provisions of Class A. Furthermore, whilst an outbuilding under Class E cannot be erected forwards of a wall forming the principal elevation, it could cover up to 50% of the total area of the curtilage. Given the considerable set-back of the bungalow from the street, this could theoretically result in almost all of the site to the side and rear of the bungalow to be occupied by further development. Although there would be limited visibility of any buildings to the rear of the site, such additional development has the clear potential to cause a considerable reduction, and consequently substantial harm, to the spatial openness of the Green Belt.
13. Such a situation would conflict with Section 13 of the Framework, which seeks to protect the Green Belt and its openness, and Policy GB1 of the LP, insofar as it requires development in the Green Belt to be determined in accordance with national policy. It follows that there is clear justification to remove these permitted development rights and the condition, in so far as it relates to Classes A and E, is reasonable and necessary to make the development acceptable in planning terms.
14. This is not to say that extensions or outbuildings would be unacceptable as a matter of principle. The condition would enable the Council to consider such additional development having regard to the Green Belt constraint.
15. My attention has been drawn to a website article regarding a successful appeal against conditions which had removed permitted development rights from a planning permission. However, the screenshot of the article provides very limited details of that appeal scheme and as such I am unable to make any meaningful comparison between that scheme and the appeal proposal before me.
16. A modified condition, removing reference to Classes AA, B, and D of Part 1, but enabling the Council to retain control over development within Classes A and E, would be reasonable and necessary in the interests of preserving the openness of the Green Belt. The development, with the modified condition, would comply with the provisions of the Framework and with LP Policy GB1. It would also be necessary to replace the reference in the condition to Schedule 1 of the GPDO, which defines Articles 2(3) and 2(4) land, with Schedule 2, which sets out the permitted development rights.

Other Matters

17. A representation has been received from a neighbouring resident expressing concern that the original planning permission was unlawful, as the appeal site should not have been considered as previously developed land. However, I am mindful that during a previous appeal, which was dismissed, for a two-storey dwelling¹, the Inspector found that the appeal site did constitute previously

¹ Planning appeal ref. APP/M0655/W/22/3300785

developed land. In their report for the current scheme, the Council accepted this and provided their own reasoning in support of this view. Based on the evidence before me, I have no reason to conclude differently.

18. I note the alleged breaches of other conditions attached to the planning permission; however this is a matter for the Council's planning enforcement team.

Conclusion and Recommendation

19. For the reasons given above I recommend that the appeal is allowed and that the planning permission is varied by deleting the disputed condition and substituting a new condition which removes permitted development rights on a narrower range of development as set out above.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and my representative's report and on that basis, I allow the appeal and vary the planning permission by deleting the disputed condition and substituting a new condition as set out above.

F Wilkinson

INSPECTOR