



Appeal Decision

Site visit made on 13 January 2025

by **R Morgan BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2025

Appeal Ref: APP/R0660/D/24/3348233

Boundary Farm, Peacock Lane, High Legh, KNUTSFORD, CHESHIRE, WA16 6NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Peter Oldbury against the decision of Cheshire East Council.
- The application Ref is 24/0815M.
- The application sought planning permission for single storey side extension and alterations without complying with a condition attached to planning permission Ref 02/1715P, dated 2 October 2002.
- The condition in dispute is No 3 which states that:
Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Development) Order 1995 no development permitted therein consisting of any extension or alteration to the dwellinghouse, or barn, or the erection of any freestanding buildings within the curtilage of the dwellinghouse shall be commenced or undertaken prior to, during or after the construction of the development hereby approved.
- The reason given for the condition is:
To prevent the development permitted by this permission and development permitted by the General Permitted Development Order co-existing, having regard to the nature of the site, policy and amenity implications of development in excess of that hereby permitted.

Decision

1. The appeal is allowed and planning permission is granted for single storey side extension and alterations at Boundary Farm, Peacock Lane, Knutsford, WA16 6NT in accordance with the application ref. 24/0815M without compliance with conditions number 1, 2 and 3 previously imposed on planning permission ref. 02/1715P, dated 2 October 2002.

Preliminary Matters

2. Planning permission ref 02/1715P (referred to below as the 'original permission') allowed for a single storey side extension at the appeal property. The grant of permission was subject to conditions, including no. 3 which removes permitted development rights for extensions or alterations to the dwellinghouse and barn, and freestanding buildings in the curtilage. The appellant now wishes to delete this condition.
3. Condition 3 does not specifically refer to the relevant provisions of Schedule 2 of the General Permitted Development Order (GPDO). However, I agree with the Council's comment that the 'erection of any freestanding buildings within the curtilage of the dwellinghouse' relates to rights contained within Part 1 Class E of the GPDO, and that 'alterations and extensions' correspond to rights contained in Part 1 Classes A – F. I have assessed the appeal on that basis.

4. A revised version of the National Planning Policy Framework (the Framework) was issued in December 2024, so all references in this decision letter are to that version. The revised Framework includes alterations to Green Belt policy, but I am satisfied that the changes do not materially affect the issues of concern in this appeal.

Main Issue

5. The reasons for condition 3 are given to be the nature of the site, policy, and amenity implications. Although not specified in the decision notice, it is evident from the appeal submissions that the policy reason relates to the need to protect the Green Belt. The planning officer's report from the original permission (OR) indicates that the amenity reason was linked to an earlier permission to convert the adjacent barn to a dwelling. That permission was never implemented, and there are no other residences nearby, so amenity concerns no longer form a reason to restrict permitted development rights.
6. The main issue, therefore, is whether condition 3 of the original permission is reasonable and necessary to protect the Green Belt and preserve its openness.

Reasons

7. The appeal site is in a rural area, surrounded by agricultural land. The property comprises a dwelling and detached garage, with driveway and domestic garden. Adjacent to the house, and within the established garden area, is a partly collapsed barn.
8. The site is within the Green Belt, where development is controlled through national policy in chapter 13 of the Framework, which is also reflected in Policy PG3 of the Cheshire East Local Plan Strategy 2017 (Local Plan). Both allow for extensions and alterations to a building, provided they do not result in disproportionate additions over and above the original. Policy RUR11 of the Site Allocations and Development Policies Document 2022 (SADPD) explains that proposals in the Green Belt will usually be considered to be disproportionate when they increase the size of the original building by more than 30%.
9. In this case, the original permission allowed for a modest single storey extension to the rear of the appeal property. The OR indicates that, in assessing that scheme, the Council took account of previous additions to the property, including a large extension which was granted permission in 1966. The OR notes that the additional extension would result in a cumulative increase of 73%. This exceeded policy guidelines in place at the time, which were similar to those in current Policy RUR11. However, the extension was small in scale, with limited visual harm, so was considered to be acceptable. The development was granted permission, and the extension subsequently built.
10. Framework paragraph 55 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this case, the OR is brief, with little explanation as to why permitted development rights were removed. Reference is made to Parish Council concerns about cumulative development at the site, and the planning history reveals that a number of applications had been submitted. These show that there had been a clear aspiration for further development at the site, including the rebuilding/replacement of the adjacent barn. However, a permission to rebuild the barn was

not implemented, and it remains in a partly collapsed state. Any future redevelopment proposals involving the barn would likely require planning permission, allowing the Council to retain control.

11. With permitted development rights intact, the house could be extended or altered, and outbuildings constructed in the curtilage. Further extensions could increase the footprint of the house and the overall amount of built form, beyond that which would be acceptable under Green Belt policy. However, in setting out domestic permitted development rights, the GPDO does not distinguish between areas within the Green Belt and those outside. On its own, the location of the site within the Green Belt does not provide a reason to remove permitted development rights, even taking account of previous extensions.
12. Permitted development rights under Part 1 Class A would allow for single storey extensions to be added, within the limitations set out in the legislation. The scale and height of development would be controlled, and such extensions could only be added to the back or side of the property. The site is surrounded by fields, so the visual impact of such development would be limited, and any development here would be seen in the context of the existing buildings on the site. The Council has provided no clear justification to remove permitted development rights under Class A.
13. Under Class AA, an additional storey could be added, but this would be subject to the Council's prior approval as to the external appearance of the dwellinghouse, including the design and architectural features. The distinctive twin gabled roof form is an important feature of the house, and achieving a sensitive upward extension is likely to be challenging. Given that the Council could exercise control over this matter, there is no clear justification for removing Class AA rights.
14. Additions and alterations to the roof could be made under Classes B and C, which could increase the bulk of development at first floor level. However, any alterations under Class B would be subject to limitations on height, position and volume as set out in the GPDO, and any roof extension would need to be at the rear of the house, which would limit its visual impact. Given these considerations, there is no clear justification for restricting rights under Class B, or for other alterations under Class C.
15. The front entrance to the property already has a porch, and any other porches added to external doors under Class D would be small in scale, with limited visual impact.
16. The extent of land with lawful use as a domestic garden has been established through previous planning decisions (including the Certificate of Lawful Existing Use issued under 14/2827M). The garden area is fairly large overall, but it does not extend far beyond the existing buildings in any direction. Any curtilage development would be constrained by the conditions and limitations of rights under Part 1 Class E, which include restrictions on height and scale. As would be the case for extensions, any new curtilage building would be seen in the context of the existing buildings on the site, which would limit its visual impact.
17. The Council has not explained why development which could be carried out under Part 1 Class E would be particularly harmful here, and I have not identified any clear reason either. Removal of permitted development rights has not been clearly justified.

18. Having regard to the above considerations, I find that in this particular case, policies to protect the Green Belt, including Local Plan Policy PG3, SADPD Policy RUR11 and the Framework, do not provide a reason to remove permitted development rights. Condition 3 is not reasonable or necessary to protect the Green Belt or preserve its openness, so should be deleted.

Conditions

19. The original permission was subject to three conditions. I have deleted condition 3 for the reasons set out above. Condition 1, which imposed a timescale for implementation, is no longer needed. Similarly, condition 2, which is concerned with materials to be used in the external surfaces of the extension, is not needed either. I have therefore removed all three conditions.

Conclusion

20. For the reasons set out above, the appeal is allowed, and conditions 1, 2 and 3 of the original permission are deleted.

R Morgan

INSPECTOR