



Appeal Decision

Site visit made on 10 December 2024

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th February 2025

Appeal Ref: APP/B1550/W/24/3347587

Mayfield, Pudsey Hall Lane, Canewdon, Essex SS4 3RY

- 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 James Pratt against the decision of Rochford District Council.
 - The application Ref is 24/00035/FUL.
 - The application sought planning permission for a single storey rear extension without complying with a condition attached to planning permission Ref ROC/00532/85, dated 24 October 1985.
 - The condition in dispute is No 3 which states that: Notwithstanding the provisions of Article 3 and Class 1, Schedule 1 of the Town and Country Planning General Development Orders, 1977 to 1981 (or any Order revoking or re-enacting those orders) the dwelling shall not be further enlarged or altered, or shall any other development take place within the site within 5 metres of any part of the building without the prior approval of the local planning authority.
 - The reason given for the condition is: To enable the local planning authority to control any further alterations to the existing dwelling which would change the character and appearance of the building, or by development in close proximity to the building would change the character and appearance of the site.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at Mayfield, Pudsey Hall Lane, Canewdon, Essex SS4 3RY in accordance with the application Ref 24/00035/FUL without compliance with the conditions previously imposed on the planning permission Ref ROC/00532/85 dated 24 October 1985.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as it 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.
3. There is another appeal being determined at this site in relation to proposed extensions and alterations to the house¹. Each appeal is considered on its own merits.

Background and Main Issue

4. Planning permission was granted in 1985 for a single storey rear extension which included condition 3 removing permitted development rights for any extension or alteration to the dwelling or any other development within 5 metres (m) of any part of the building without the prior approval of the local planning authority. The extension is

¹ APP/B1550/D/243348058

in place. The Council considers this condition to be necessary to control the scale, appearance and impact of any extensions that would be in accordance with permitted development rights on the openness of the Green Belt. There are also other outbuildings present in the rear garden, however, my consideration of the appeal is necessarily limited to the drawings shown on the original permission.

5. Taking into account the above background, the main issue is whether the condition is reasonable and necessary, having particular regard to the appeal site's location in the Green Belt, including any effect upon openness.

Reasons

6. The Framework sets out that development in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. One such exception, set out in paragraph 154c, is for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
7. Policy DM17 of the Rochford District Council Development Management Plan 2014 (the Local Plan) states that applications for extensions to dwellings in the Green Belt will be considered favourably provided the proposal would result in no more than a 25% increase in internal floorspace of the original dwelling. It also specifically states that any grant of planning permission will be conditioned to remove permitted development rights which would allow the dwelling to be extended, in order to control their scale, appearance and impact. The Council indicate that the approved extension has 'used up' the 25% allowance under Policy DM17 and they consider that any further additions would amount to inappropriate development.
8. Condition 3, in prohibiting any additional extension or alteration to the building, is intended to ensure that no development could occur which would then be considered a disproportionate addition and/or would reduce the openness of the Green Belt. Given the requirements of Policy DM17, the Council indicate that if the extension was granted permission today, the condition removing permitted development rights would still be necessary in order to prevent inappropriate development and to protect the openness of the Green Belt.
9. I have been referred to previously refused applications for extensions at the appeal site including a prior approval application for an 8m deep single storey rear extension, a refusal of planning permission for another single storey rear extension, and the appeal referred to above². The prior approval application was refused due to the existence of the condition the subject of this appeal, and the Council considered the 2017 rear extension to be inappropriate development in the Green Belt as the proposal was larger than the existing rear extension.
10. Permitted development rights can in some circumstances permit sizeable extensions that could exceed the disproportionate test in paragraph 154(c) of the Framework. Nevertheless, the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) does not make any concessions for Green Belt land in its allowances for domestic extensions and alterations. Permitted development is subject to controls regarding scale and appearance within the GPDO itself.

² References 16/00617/DPDP1 and 17/01023/FUL and appeal reference APP/B1550/D/243348058

11. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. The Planning Practice Guidance³ states that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity. Furthermore, it advises that area-wide or blanket removal of freedoms to carry out small scale domestic alterations, which would otherwise not require an application for planning permission, are unlikely to meet the tests of reasonableness and necessity.
12. Openness is an essential characteristic of the Green Belt; it can be perceived both spatially and visually. Given the rear garden is greater than 5m long, the disputed condition does not completely remove the ability of the appellant to erect outbuildings, the effect of which would in any event be likely to reduce the spatial and visual openness of the Green Belt. Whilst I acknowledge that the condition would not enable the extension of the existing building or new outbuildings within 5m of the house without the prior approval of the local planning authority, any consequent benefits in terms of preserving openness immediately around the main dwelling would be somewhat negated due to the potential for the construction of outbuildings and other alterations beyond the 5m limit.
13. Even if in this case the appellant took up the opportunity to implement the permitted development rights for domestic extensions, there are restrictions in place within the GPDO regarding the size and site coverage of any outbuildings.
14. As the GPDO could enable the erection of outbuildings in the rear garden which could reduce the openness of the Green Belt, along with the advice contained in the Framework and PPG, I find that the condition is not necessary or reasonable in the interests of preventing inappropriate development and protecting the openness of the Green Belt.

Conditions

15. As set out above, a condition removing permitted development rights is neither reasonable nor necessary. This condition is therefore deleted. In terms of the remaining conditions originally imposed, numbers 1 and 2 which relate to the materials to be used in the extensions, and a time limit on implementation, are no longer necessary given the development has been implemented.

Conclusion

16. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without conditions 1, 2 and 3.

L Francis

INSPECTOR

³ 21a-017-20190723