



Appeal Decision

Site visit made on 18 March 2025

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 31st March 2025

Appeal Ref: APP/H2265/W/24/3350266

8, The Orpines, Watlington, Maidstone, Kent ME18 5BP

- 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 and Mrs Gregson against the decision of Tonbridge and Malling Borough Council.
 - The application reference TM/23/03382 was approved on 23 February 2024 and planning permission was granted subject to conditions. The development permitted is removal of existing conservatory and erection of a single storey side extension and associated external alterations.
 - The condition in dispute is No 4 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), no development falling within Classes A, B, and E of Part 1 of Schedule 2 shall be carried out without the prior, express planning permission of the Local Planning Authority.
 - The reason given for the condition is: In order that the Local Planning Authority can properly consider the effect of any future proposals on the openness and character of the Green Belt.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the Council's determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The parties have had the opportunity to make comments on the revisions to the Framework as part of the appeal process and I have taken their comments into account in my decision.

Main Issue

3. The main issue in this appeal is the effect that removing Condition 4 would have on the Green Belt having regard to the Framework and relevant development plan policies, including any relevant effects on the openness of the Green Belt.

Reasons

4. Two permissions have been granted to provide extensions on the house within the site. The first¹ was for a two-storey side and single storey rear extension on the north-western and rear sides of the house and a second² for a single storey side extension to replace a conservatory, at the south-eastern end of the house. It is a condition applied to the second permission, that removes permitted development rights under classes A, B and E of Part 1 of Schedule 2 of the Town and Country

¹ Council Ref: 19/00891/FL

² Council Ref: TM/23/03382

Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), that is the subject of this appeal.

5. The first permission has, by virtue of works carried out, been implemented and is, therefore, an extant permission. The appellants, however, consider that it cannot be completed as a foul sewer would need to be diverted, and that this would involve re-routing and works on third party land, outside of the red line boundary of the first permission, and would be prohibitively expensive. Further, they identify the existence of a structure now occupying part of the area that the two-storey extension would occupy.
6. Whilst I note that both permissions provide kitchen/dining areas within the internal layout of the dwelling, and it is unlikely that both would be needed, the internal fixtures and fitting of either extension could be changed by the occupiers without further permission.
7. The existing structure could be removed, nor has it been demonstrated to my satisfaction that other engineering designs could not provide an effective drainage solution. Whilst cost may currently be prohibitive to the appellants, that is not a matter that definitively prevents a solution being found and so these matters do not conclusively prevent the development being completed.
8. The Council determined that each of the extensions permitted under the two planning permissions would, alone or in combination, not amount to disproportionate additions to the dwelling and, therefore, not be inappropriate development within the Green Belt. On the basis of the evidence before me I see no reason to disagree with that conclusion.
9. However, if both were implemented, they would substantially increase the volume and floor area of built form within the appeal site. This would, inevitably, have spatial and visual effects on the openness of the Green Belt.
10. Through development permitted by the Order there would be potential to add additional built form within the site. Given the potential scale of such development, it is possible that this, in combination with the two substantial extensions, for this to amount to a disproportionate enlargement.
11. I therefore find that the imposition of Condition 4 is justified in order that the Council can fully assess the effects of any future proposed additions to the built form within the site regarding their impact on the openness of the Green Belt. Such a condition does not preclude the possibility that such proposals, when considered, may be found to constitute development that is not inappropriate within the precepts set out within local and national planning policy.
12. The appellants have identified that the first permission did not include any provision to curtail permitted development similar to that imposed on the second permission. The second permission, notwithstanding that the extension replaced a smaller existing structure, increased the potential total built form within the site.
13. Thus, the implications for openness associated with implementing the second permission were not the same. It is apparent that the Council, in imposing the condition on the second permission, were acting in response to the potentiality resulting from both extant permissions.

14. I therefore conclude that removing Condition 4 would have an unacceptable effect on the Green Belt having regard to the Framework and relevant development plan policies, including any relevant effects on the openness of the Green Belt.

Conclusion

15. For the reasons given above, and having taken all other matters into account, the appeal should fail.

I A Dyer

INSPECTOR