
Appeal Decision

Site visit made on 2 April 2025

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/H2265/W/24/3356231

Little Holt, Copt Hall Road, Ightham, Kent TN15 9DU

- 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 Carl Thomason against Tonbridge and Malling Borough Council.
 - The application Ref. TM/24/01466/PA was approved on 18 November 2024 and planning permission was granted subject to conditions.
 - The development permitted is for two storey and part single side extensions to existing dwelling house.
 - 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 allowed and the planning permission Ref. TM/24/01466/PA for two storey and part single side extensions to existing dwelling house at Little Holt, Copt Hall Lane, Ightham, Kent TN15 9DU granted on 18 November 2024 by Tonbridge and Malling Borough Council is varied by deleting Condition No 4.

Main Issue

2. The main issue is whether the condition is necessary and reasonable having regard to local and national policy concerning development in the Green Belt.

Reasons

3. The appeal site is a detached two-storey dwelling set in substantial grounds forming the corner plot between Copt Hall Lane and Common Road. The local environs comprise dwellings in a village setting, within wider open countryside of fields and woodland.
 4. The National Planning Policy Framework (the Framework) advises that planning conditions should be kept to a minimum, and only imposed where they meet the six tests which require that they are: necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance (PPG) goes on to state that conditions restricting the future use of permitted development (PD) rights or changes of use may not pass the test of reasonableness or necessity.
 5. The Council's delegated report confirms that the approved scheme would result in a 31.6% increase above the volume of the original building. This was accepted by the Authority in that the extensions would be no higher than the existing dwelling and the width would be limited to approximately half that of the house; the resultant property would still appear relatively compact and would not spread significantly beyond the building confines.
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6. I recognise that PD rights at the site could give rise to further built form within the Green Belt, and indeed the Council states that works in relation to a Certificate of Lawfulness application are proceeding, which I saw at my visit.
7. However, the extent of such development would be limited by the criteria of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order). Although this may still allow for some sizeable built form, I have not been provided with evidence that these rights are likely to be used to their maximum. In addition, such extensions are further constrained by, and situated within, the site itself, and the single storey rear extension appears very similar on both the approved and certificate plans, so the impact would be somewhat neutral. This leaves the two-storey side element; I do not find that this feature as proposed in the certificate application would be so excessive as to justify the imposition of condition no. 4.
8. Moreover, although relatively large, the site is self-contained and partly screened from view of the highway and surrounding land by its boundary treatments. It is read as part of the curtilage to Little Holt, rather than belonging to the open countryside and woods beyond. Any permitted development at the site would be experienced in this context, so as not to appear out of place or to unduly disrupt surrounding openness.
9. I appreciate that the Framework seeks to protect Green Belt land from inappropriate development. However, permitted development is that for which the principle has already been granted by secondary legislation, and there are no restrictions in the Order on development within the curtilage of dwellings located in the Green Belt, whereas for example such restrictions do exist in National Parks and Conservation Areas through their inclusion as Article 2(3) land. The fact that the site is located within the Green Belt with potential for further development is also common for many other dwellings and curtilages; indeed, there are a number of other large residences in sizeable plots along Copt Hall Lane, and there is no indication that these are hindered by conditions restricting PD rights.
10. I do not therefore consider that the position of the appeal site within the Green Belt is in itself a reason to restrict PD rights. Therefore, in the light of the provisions of the Framework and PPG regarding the imposition of conditions in this regard, there are no overriding reasons to justify the removal of such rights.

Conclusion

11. For the reasons given, Condition No 4 is neither reasonable nor necessary, having regard to local and national policy concerning development in the Green Belt. I shall therefore allow the appeal and vary the original permission by removing Condition No 4.

C Hall

INSPECTOR