



Appeal Decision

Site visit made on 22 April 2025

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 April 2025

Appeal Ref: APP/C4235/W/24/3357139

Brookside Barn, 1 Holly Lane, Hazel Grove, Stockport SK7 6LW

- 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 D Meikle against the decision of Stockport Metropolitan Borough Council.
 - The application Ref is DC/093351.
 - The application sought planning permission for revised house type to that approved by planning permission reference DC/054349 without complying with a condition attached to planning permission Ref DC/059709, dated 26 February 2016.
 - The condition in dispute is No 21 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), no development falling within classes A-H (inclusive) of Part 1 of Schedule 2 and class A of Part 2 of Schedule 2 of that Order shall be carried out.*
 - The reason given for the condition is: *In view of the form and location of the development hereby approved, the Local Planning Authority wishes to assess the appearance and impact of any future proposals on the character and appearance of the area and Green Belt, and to prevent the provision of excessive parking facilities, in order to ensure compliance with policy GBA1.2 "Control Of Development In The Green Belt", of the Stockport Unitary Development Plan Review, policies SIE-1 'Quality Places' and T-2 'Parking in Developments' of the adopted Stockport Core Strategy DPD, and the relevant advice contained in the NPPF.*
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Decision

1. The appeal is allowed and planning permission is granted for revised house type to that approved by planning permission reference DC/054349 at Brookside Barn, 1 Holly Lane, Hazel Grove, Stockport SK7 6LW in accordance with the application Ref DC/093351, without compliance with condition number 21 previously imposed on planning permission Ref DC/059709 dated 26 February 2016 and subject to the conditions set out in the attached schedule.

Background and Main Issue

2. The appeal site relates to Brookside Barn, a large, detached dwelling within a large plot on the edge of the settlement. The site, along with Torkington Primary School to the south west, lies within the Green Belt. A cluster of detached residential dwellings are located to the west. To the east is open countryside. The appeal site is bound by mature vegetation. It has a parking area to the front.
3. Planning permission was granted in 2014 for a replacement dwelling on the appeal site. Following this, the appellant applied for planning permission for a revised house type to the one approved in 2014. Planning permission was granted for this revised house type in 2016 which has subsequently been constructed.

4. In granting permission, the Council imposed condition 21 which removed permitted development (PD) rights for development under several classes of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), including extensions (Class A), roof extensions and alterations (Classes B and C), porches (Class D), outbuildings (Class E), hard surfaces (Class F), chimneys and flues (Class G) and antennas and satellite dishes (Class H). PD rights have also been removed in respect of the erection, maintenance or alteration of a gate, fence, wall or other means of enclosure (Part 2, Class A).
5. The reason for the original condition was to enable the Local Planning Authority to control the character and appearance of the area and Green Belt and to prevent any excessive parking facilities.
6. Accordingly, the main issue is whether the disputed condition is necessary or reasonable to make the development acceptable in planning terms, having regard to the site's location in the Green Belt and the character and appearance of the area.

Reasons

7. Paragraph 55 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
8. The Planning Practice Guidance (PPG) reinforces this, adding that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
9. Schedule 2, Part 1 of the GPDO sets out the PD rights for development within the curtilage of a dwellinghouse. These rights apply generally to all dwellinghouses, with specific exceptions for some classes. Rights under Class A, B, E, G and H for example, do not apply on Article 2(3) land. This is defined in the GPDO as, inter alia, land within a conservation area, an area of outstanding natural beauty, a National Park, and a World Heritage Site. It does not include land falling within the Green Belt.
10. Given the specific areas of land included under Article 2(3), it can be inferred that the omission of land within the Green Belt from the list was intentional on the Government's part, and as a result, land within the Green Belt is regarded as no different in terms of the application of PD rights as land outside of it. This suggests that the type and size of development permitted under the GPDO would not be inappropriate development in the Green Belt as a matter of course. The fact that PD rights have not been removed for land in the Green Belt suggests that the Government's fundamental Green Belt aim of preventing urban sprawl by keeping land permanently open does not extend to preventing permitted development within a domestic curtilage. Therefore, if the disputed condition was removed, implementing permitted development rights would not automatically result in inappropriate development in the Green Belt as defined in the Framework.

11. Consequently, the starting point is that PD rights should remain in place, even in the Green Belt, unless clear justification is advanced which is precisely defined and specific to the site. The fact that the appeal property is within the Green Belt does not in itself provide the clear justification required for the disputed condition.
12. The Council deemed the replacement dwelling granted permission in 2014 was not inappropriate development within the Green Belt. The 2016 permission was also not deemed inappropriate development in the Green Belt. The Council state the approved 2016 development was 14% larger than the dwelling which was approved in 2014. They considered that this was close to the threshold allowed by Policy GBA1.5 of the Stockport Unitary Development Plan Review (2006) (UDP). The supporting text of the policy allows for additions to dwellings in the Green Belt up to a third of the size of the original dwelling. Consequently, the Council considered that any further additions could lead to disproportionate additions, which in turn could harm the openness of the Green Belt.
13. From the evidence before me, the 2014 permission was not built out and it was the 2016 scheme which was constructed. The Framework defines the original building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. Whilst the Framework definition does not deal expressly with replacements, for the purposes of the Framework it would be reasonable to conclude that the original building is the replacement dwelling itself. As such, I find that the 2016 built out permission now forms the baseline of any future assessment as to whether disproportionate additions could occur.
14. Consequently, under the provisions of the Framework, any further additions would not automatically be disproportionate under the tests at paragraph 154. However, even if I were to consider that the 2016 permission was not the original dwelling, I do not consider a 14% increase over what was previously approved, is close to the threshold of what is considered acceptable by Policy GBA1.5.
15. From my observations on site, the appeal property does not appear to have had any subsequent extensions. I acknowledge that potentially, permitted development on the site could give rise to substantial additions over and above the size of the existing dwelling. However, the majority of dwellings across the Green Belt retain and potentially exercise PD rights without reference to the effect on the openness of the Green Belt, even where extensions are proposed, which, under a planning application may be regarded as disproportionate. The fact that the appeal site is located within the Green Belt and that there may be extensions and outbuildings, is a situation that would be applicable to the majority of dwellings across the Green Belt. I thus consider the circumstances set out by the Council are not unique to the appeal site.
16. No substantive analysis of harm to the character and appearance of the area or Green Belt's openness at this specific site has been set out by the Council which would explain the need to restrict PD rights in the manner and extent to which the imposed condition does. Moreover, I have not been provided with any evidence that such rights are likely to be used to their maximum. Thus, any harm caused by loss of openness or to the character and appearance of the area is largely speculative.
17. In terms of character and appearance, the appeal site is located to the east of a cluster of dwellings accessed via Brook Lane. A track runs south of the site, but

visibility is limited due to the combination of mature vegetation and boundary treatment. Any change could potentially alter the character and appearance of the area; however, there is nothing before me to suggest any changes would be harmful. Size and locational restrictions exist under Classes A and B. The Council has not given any examples of potential extensions that it considers could be undertaken that would be harmful to the character and appearance of the area. Indeed, there is variety in the scale and appearance of properties in the vicinity. I am not persuaded that the site circumstances are such, that extensions to the dwelling would have such an effect on the openness of the Green Belt or its purposes that removal of PD rights would be justified.

18. I am also mindful that minor works carried out under Classes C,D,G and H are also subject to certain limitations and conditions, which would control the size and appearance. Whilst the plot is large, the Officer Report states the condition was not imposed due to concerns over the large plot size. Outbuildings in this residential setting would not be unusual, and PD rights again limit these to the curtilage of the dwellinghouse and are subject to restrictions in terms of size and location.
19. Other than being in the Green Belt, there is nothing to suggest the site lies in an area of special character or is subject to any site-specific landscape designations. As such, and given the limitations of the GPDO that I have already discussed, I do not consider that character and appearance of the area would be detrimentally harmed should permitted development rights be implemented.
20. The Council also raises concern over the potential for excessive parking facilities. There is nothing before me to suggest that the appellant is seeking to construct additional parking, nor that the appeal site at present has an undersupply of parking which would necessitate an expansion. In any case, I am not persuaded that any increase in hardstanding alone would have an adverse effect on the openness of the Green Belt or the character and appearance of the site. I am not persuaded that the concerns the Council has regarding the potential for excessive parking have been sufficiently justified to restrict the provision or replacement of areas of hard surfacing for purposes incidental to the enjoyment of the dwelling allowed under Class F.
21. Additionally, no justification been put forward in respect of withholding PD rights under Part 2 Class, A in respect of means of enclosure. I observed a variety of boundary treatments in the vicinity, including walls, hedging and fencing. I see no reason to withdraw such rights in the context of the appeal site having regard to the Framework and the PPG.
22. Based on the evidence before me and my site observations, I do not consider that there are circumstances particular to this site to justify a stricter approach to PD rights that exist on other properties within the Green Belt under Part 1, Classes A, B, C, D, E, F, G and H, or Part 2 Class A.
23. Accordingly, having regard to the Framework and PPG, I conclude that it has not been demonstrated that there is clear justification for the removal of PD rights. Thus, condition 21 of the original permission is not reasonable or necessary to make the development acceptable in the context of the site's location within the Green Belt, nor is it necessary in terms of protecting the character and appearance of the area. I thus find no conflict with Policy GBA1.2 of the UDP, which seeks to

control development in the Green Belt, and Policy SIE-1 of the Stockport Metropolitan Borough Council Core Strategy DPD (2011) (DPD) which seeks, amongst other matters, development of a high standard, having regard to the local context in which it is sited.

24. Policy T-2 of the DPD has been cited on the decision notice. This requires development to be in accordance with maximum parking standards and that development will not result in inappropriate on-street parking. Given the main issue in this appeal, I find that this policy is not determinative in this case.

Other Matter

25. Whilst noting the comments from an interested party in respect of restrictive covenants, this is a separate matter away from the planning merits of the case.

Conditions

26. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
27. As the development has been constructed and occupied, I have reworded conditions 13,14 and 15 that related to pre-occupation.

Conclusion

28. For the reasons given above the appeal should be allowed, and a new planning permission is granted, excluding condition 21.

T Bennett

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: GTP1 – Location Plan, Topographical Survey 3020 03 C; stamped amended plan and dated 26/2/16, Proposed Site Plan 3020 02 G; stamped amended plan and dated 26/2/16, Plans and Elevations 3020 07 D; stamped amended plan and dated 26/2/16.
- 2) The materials of external construction shall be in strict accordance with those approved by the Local Planning Authority under condition 3 of planning application reference number DC054349 (discharge of condition application DC059642).
- 3) The following items of domestic plant shall comply with the stipulations below, unless alternative details are submitted to and approved in writing by the Local Planning Authority:
 - Utility meter boxes shall be sited on the end elevations, and shall be coloured black, or dark brown if recessed into the ground.
 - Boiler flue outlets and mechanical ventilation outlets shall be coloured black externally.
 - Roof vents shall not project above the plane of the roofing material and shall be coloured to match the roofing material.
 - No installation of other externally mounted plant equipment (including lighting, security cameras, microwave antennae and alarm boxes) shall take place until details (including the location, design, method of support, materials and finishes) have been submitted to and approved in writing by the local planning authority. Such plant and other equipment shall not be installed other than in accordance with the approved details.
- 4) Notwithstanding the information shown on the submitted drawings, unless otherwise approved by the Local Planning Authority under condition 5 of planning application reference number DC054349 (discharge of condition application DC059642) no installation of fascia boards, window & door sills & heads, canopies and chimneys shall take place until detailed drawings illustrating the location, design, material and finish at a scale of 1:20 or 1:5 as appropriate have been submitted to and approved in writing by the local planning authority. Development shall not be carried out except in accordance with the agreed details.
- 5) All windows shall be timber with a painted finish, with mouldings and glazing bars of a traditional design and profile to match those approved by the Local Planning Authority under condition 6 of planning application reference number DC054349 (discharge of condition application DC059642). No face mounted trickle vents shall be fitted. Spacer bars between double glazed units shall be coloured black.

- 6) All windows and doors shall be set back from the face of the building within the window and door reveals by a minimum of 75mm.
- 7) All external doors shall be of timber with a painted finish to a traditional design and profile, to match those approved by the Local Planning Authority under condition 8 of planning application reference number DC054349 (discharge of condition application DC059642).
- 8) All rainwater goods shall have traditional cast-iron type profiles, and collar connections with lugs for fixing downpipes to the face of the building.
- 9) Soil and vent pipes shall be located inside the building and painted black where they project outside the roof unless otherwise approved in writing by the Local Planning Authority.
- 10) Refuse storage facilities shall be constructed in accordance with the details approved by the Local Planning Authority under condition 11 of planning application reference number DC054349 (discharge of condition application DC059642). Thereafter the approved facilities shall be retained.
- 11) All screen and boundary walls, fences or other means of enclosure shall be in accordance with those approved by the Local Planning Authority under condition 12 of planning application reference DC054349 (discharge of condition application DC059642). The development shall not be occupied until the enclosures have been erected in accordance with the approved details.
- 12) The materials to be used in the formation of any hardstandings or parking areas within the site shall be in accordance with those approved by the Local Planning Authority under condition 13 of planning application reference number DC054349 (discharge of condition application DC059642). Development shall be completed in full accordance with these agreed details before first occupation of the dwelling.
- 13) The site's access drive (including passing place, turning area and bridge) shall be laid out, constructed, surfaced, drained and illuminated in accordance with the drawing 3020 02 Rev G and materials approved by the Local Planning Authority under condition 13 of planning application reference number DC054349 (discharge of condition application DC059642). It shall then be retained in this way and remain available for use at all times.
- 14) The hardstanding parking facilities shall be laid out, surfaced and drained in accordance with the drawing 3020 02 Rev G and materials approved by the Local Planning Authority under condition 13 of planning application reference number DC054349 (discharge of condition application DC059642). The facilities shall thereafter be retained and remain available for parking of vehicles for the development.
- 15) A long-stay cycle parking facility shall be provided for the approved dwelling in accordance with the facility approved by the Local Planning Authority under condition 17 of planning application reference number DC054349 (discharge of

condition application DC059642). The facility shall then be retained and shall remain available for use at all times thereafter.

- 16) The landscaping scheme approved by the Local Planning Authority under condition 18 of planning application reference number DC054349 (discharge of condition application DC059642) shall be implemented within 6 months of the date of occupation of the building or substantial completion of the development whichever is the sooner. Any trees, plants or grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size, species and quality unless the local planning authority gives written approval to any variation.
- 17) No existing hedgerow or shrub shall be removed, felled, topped or suffer disturbance to roots without the prior written approval of the local planning authority with the exception of those specifically indicated otherwise on the approved plan. Any hedgerow, or shrubbery removed without such consent or dying or being severely damaged or becoming seriously diseased within 5 years of the development commencing, shall be replaced within the next planting season with hedgerows and shrubs of such size and species as may be approved in writing by the local planning authority.
- 18) No existing tree within the site shall be cut down, topped, lopped, uprooted, wilfully damaged or wilfully destroyed without the prior written approval of the local planning authority, with the exception of those indicated otherwise on the approved plan. Any hedgerows, woody plants or shrubbery removed without such consent or dying or being severely damaged or being seriously diseased, within 5 years of the development commencing, shall be replaced within the next planting season with trees of such size and species as may be approved in writing by the local planning authority.
- 19) No development shall take place until all existing trees on the site except those shown to be removed on the approved plans, have been fenced off in accordance with BS 5837:2012 "Trees in relation to construction - Recommendations". The fencing shall be retained during the period of construction and no work, excavation, tipping or stacking of materials shall take place within any such fence during the construction period.
- 20) The development hereby approved shall be implemented in complete accordance with the recommendations and mitigation measures specified in the submitted Bat Species Survey Report compiled by Peter Giles of Ecologically Bats dated October 2009, as submitted by the applicant/ approved by the Local Planning Authority for planning application reference number DC054349.