



Appeal Decision

Site visit made on 19 March 2025

by **S Brook BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 April 2025

Appeal Ref: APP/P2365/W/24/3353902

Moss Stocks, 339 Moss Lane, Hesketh Bank PR4 6XJ

- 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 Mrs Katie Wignall against the decision of West Lancashire Borough Council.
 - The application reference 2024/0004/FUL was approved on 3 May 2024 and planning permission was granted subject to conditions.
 - The development permitted is 'Erection of a detached dwelling house following the demolition of the existing' (resubmission of application 2023/0388/FUL).
 - The condition in dispute is No 7 which states that: *The following provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) Schedule 2, Part 1 Classes A, B, C, D and E and Part 2 Class A, or any amendments made to that Order, shall not apply:*
 - (i) no extension shall be carried out to the dwelling;
 - (ii) no garages or carports shall be erected within the curtilage of the dwelling;
 - (iii) no buildings, greenhouses, swimming pools, gates, walls, fences or other structures shall be erected within the curtilage of the dwelling;
 - (iv) no windows or dormer windows shall be added to the dwelling.*Unless on application to the Local Planning Authority, planning permission for such development has been granted.*
 - The reason given for the condition is: *The character and location of the property are such that the Local Planning Authority wish to exercise control over future development in order to protect the openness of the Green Belt and to comply with the provisions of Policy GN1(b) in the West Lancashire Local Plan 2012-2027 and National Planning Policy Framework - Protecting Green Belt Land.*
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Decision

1. The appeal is allowed and planning permission reference 2024/0004/FUL for Erection of a detached dwelling house following the demolition of the existing (resubmission of application 2023/0388/FUL) at Moss Stocks, 339 Moss Lane, Hesketh Bank, PR4 6XJ granted on 3 May 2024 by West Lancashire Borough Council is varied by deleting condition No 7 and substituting it for the following condition:
 - 1) The following provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) Schedule 2, Part 1 Classes A, B, D and E, shall not apply:
 - (i) no extension shall be carried out to the dwelling;
 - (ii) no garages or carports shall be erected within the curtilage of the dwelling;
 - (iii) no buildings, greenhouses, swimming pools, or other structures shall be erected within the curtilage of the dwelling;

- (iv) no dormer windows shall be added to the dwelling.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

Main Issue

3. The main issue is whether the condition is necessary and reasonable having regard to local and national policies protecting the openness of the Green Belt.

Reasons

4. The appeal site comprises a parcel of land where a dwelling is currently under construction. There is a caravan and an agricultural type structure to the north. While there is a dwelling to the immediate east and further sporadic housing along Moss Lane further north, the appeal site is surrounded by agricultural fields. The land is flat, affording open and panoramic views over the landscape. The appeal site is within the Green Belt.
5. In 2021, the Council issued a decision that prior approval was not required for the change of use of an existing agricultural building on the appeal site to a dwelling¹. At this time, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, (GPDO) did not include any allowance for extensions. Further, permitted development rights (PD rights) afforded by Schedule 2, Part 1 of the GPDO relating to development within the curtilage of a dwellinghouse are not applicable to a dwellinghouse granted by virtue of Class Q. As such, had this conversion been undertaken, the resulting dwellinghouse would not have benefitted from these PD rights. However, there is no information before me to suggest that it would not have benefitted from those PD rights afforded by Schedule 2, Part 2, Class A, relating to gates, fences, walls etc.
6. In 2023, the Council granted planning permission for the erection of a detached dwellinghouse following the demolition of the existing building². The Council's Officer Report (OR) for the appeal scheme indicates that this earlier proposal was considered to be inappropriate development in the Green Belt, but that the fallback position of the 2021 permission, was accepted as the very special circumstances required to justify inappropriate development in the Green Belt. This was on the basis that the new build dwellinghouse mirrored the scale and form of the barn to be replaced. The OR indicates that when granting this earlier permission, certain PD rights were removed by condition, albeit there is no decision notice before me confirming this.
7. The Council also considered the appeal scheme to be inappropriate development in the Green Belt. The OR stated that the proposal would result in a greater volume of development than the fallback position, through the addition of a basement level. However, the Council concluded that this would have no greater impact on openness of the Green Belt, and so the very special circumstances required to justify the proposal had been demonstrated. The appeal scheme was

¹ 2021/0869/PNC

² 2023/0388/FUL

subject to condition 7, which removes certain PD rights of the GPDO, under Schedule 2, Part 1 and Part 2.

8. Paragraph 57 of the Framework advises that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (the 6 tests). The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity, and that the scope of such conditions needs to be precisely defined. It goes on to state 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 necessity³.
9. The GPDO places no restrictions on development within the curtilage of a dwelling which is located in the Green Belt, whereas restrictions do apply, for example, to dwellings within National Parks and conservation areas. No tests of inappropriateness or effect on openness are applicable to permitted development and it is reasonable to assume that some loss of openness is anticipated by this legislation, albeit this is limited by the scale permitted. As the PPG advises that the blanket removal of freedoms to carry out small scale domestic alterations are unlikely to meet the tests of reasonableness and necessity, then PD rights should not be removed, unless there is clear justification to do so, having regard to the particular circumstances of a case. The Council's Supplementary Planning Document – Development in the Green Belt (October 2015) reserves the right to remove PD rights, where they could have an adverse impact on the openness of the Green Belt.
10. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
11. The appeal site is set back from Moss Lane, down a private road. A line of mature trees provides some screening of the appeal site from the north. Nevertheless, the appeal site is open to its remaining boundaries and both the site, and its surroundings, have a strong sense of openness resulting from the flat nature of the land, the limited extent of surrounding built form, and the lack of defined boundaries to the site itself and to adjoining fields.
12. The Council has not set out what the potential for further development of the appeal site might be utilising PD rights, nor have I been provided with any intentions of the appellant. I have no reason to suspect that PD rights would be utilised to their maximum.
13. Nevertheless, the plot size of the appeal proposal is generous and so it does afford the potential for further enlargement, or additions to the dwelling itself, or for the construction of outbuildings within the plot. The approved dwelling has been controlled so that its overall size and scale reflects that of the former agricultural building. As a result, it is modestly sized, and it sits low within the landscape, with all bedrooms accommodated at the lower ground level. A porch structure has been added, but there is no garaging. It would not be unreasonable to anticipate that the appellant may wish to extend the dwelling in the future, in one manner or another,

³ Paragraph: 017 Reference ID: 21a-017-20190723

which would have the potential to impact on the spatial and visual aspects of openness.

14. Existing houses in the vicinity of the appeal site may benefit from PD rights and any future work undertaken utilising such rights at the appeal site, would be controlled by the relevant limitations and conditions of the GPDO. However, in the circumstances of this particular case, given the open and exposed nature of the appeal site, such development would have the potential to significantly impact Green Belt openness at this location. Removal of condition 7 in its entirety, could result in development of the plot that would be substantially greater in size and scale than the former agricultural building, the conversion of which originally provided the fallback position and very special circumstances to justify a new build dwelling, which was otherwise inappropriate development.
15. Consequently, having considered the characteristics of the appeal site and its surroundings, a condition removing those householder PD rights which would allow the enlargement or other additions to the dwelling itself, or the construction of buildings or other structures within its curtilage, would be reasonable and necessary having regard to protecting Green Belt openness. A condition to this effect, would meet the requirements of policy GN1 (b) of the West Lancashire Local Plan 2012-2027, Development Plan Document, October 2013, and the Framework.
16. The Council has drafted condition 7 so that it specifies which types of development falling within Classes A, B, C, D and E of Part 1 of Schedule 2, and Class A of Part 2 of Schedule 2, would not be permitted development. However, I have no reason to consider that the provisions of Class C of Part 1 of Schedule 2 for 'other alterations to the roof of a dwellinghouse' would be likely to impact on the openness of the Green Belt and so reference to this class is unnecessary.
17. For similar reasons, it is not necessary to remove PD rights relating to the insertion of windows, other than dormer windows. Further, as there is no evidence before me to suggest that the 2021 permission would not have benefitted from those PD rights afforded by Schedule 2, Part 2, Class A, relating to 'gates, fences, walls, etc', it would seem unreasonable to remove these PD rights, given that any harm to openness of the Green Belt would be no greater than that which could have resulted from this fallback position. I have therefore re-imposed the condition, omitting these references.
18. Such a condition does not restrict future development within the curtilage of the property, but it allows the Council to control it through the planning application process, which is a reasonable approach in the circumstances.
19. Changes to Schedule 2, Part 3, Class Q of the GPDO do now include some provisions for rear extensions as part of the conversion of an agricultural building to a dwellinghouse. However, householder PD rights are more extensive than this, and so this change in legislation would not justify removing condition 7 in its entirety. Further, such provisions are not unconditional but are subject to a prior approval process. As such, even if the appellant had pursued the change of use of the former building to a dwelling after this legislative change, I cannot be certain that any alternative fallback position would have included a rear extension.
20. I have had regard to two appeal decisions referenced by the appellant, where conditions restricting householder PD rights were removed. However, my

consideration of whether condition 7 is necessary and reasonable is based on the physical characteristics of this particular site and its surroundings, and so it must be considered on its individual merits. While these other examples are in the same Authority area, they are in different locations and so are not directly comparable.

21. My attention has also been drawn to the Council's decision to grant planning permission for a replacement dwelling at Croppers Lane⁴, without such a condition. However, I have not been provided with the full details of this case, and in any event, it is in a different location to the proposal before me, and so it would not share the same site characteristics. Consequently, these other proposals do not lead me to a different conclusion.

Other Matters

22. The appellant suggests that the Council has not provided any justification for imposing condition 7. The Council's decision notice includes a reason for the condition, relating to Green Belt openness, and the Council's OR explains that an increase in the spread of development in this location, would in turn compromise the openness of the Green Belt. I have reached my own conclusions based on the above findings.
23. The appellant also suggests that the Council has been inconsistent in deciding whether PD rights are removed in Green Belt cases. However, as the PPG advises that the blanket removal of such freedoms is unlikely to meet the tests of reasonableness and necessity, it is necessary for a decision to be made on the particular circumstances of each case.
24. While I note the distance of the approved dwelling from neighbouring properties, this is not determinative in my consideration of Green Belt openness.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed, insofar as the planning permission should be varied as set out in the formal decision.

S Brook

INSPECTOR

⁴ 2022/0748/FUL