



Appeal Decision

Site visit made on 15 April 2025

by K Winnard LL.B Hons Solicitor

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025.

Appeal Ref: APP/P2365/D/25/3360174

Beechwood, 105 Ruff Lane, Ormskirk, Lancashire L40 6HA

- 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 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Andrew O'Sullivan against the decision of West Lancashire Borough Council.
 - The application is Ref 2024/0851/FUL.
 - The application sought planning permission for a ground floor extension to the rear, a three storey extension to the front of the house, refurbishment of the existing house and the raising of the roof to allow for the addition of a second floor together with the addition of dormers to the front and the rear of the property without complying with a condition attached to planning permission 2023/1145/FUL dated 19 July 2024.
 - The condition in dispute is No 4 which states that: The following provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking or enacting that Order with or without modifications) Schedule 2 Part 1 Classes A, AA,B,C, D, and E and Part 2 Class A or any amendments made to that Order shall not apply:
 - (i) no extensions 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 dwellingunless 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 provisions of Policy GN1(b) in the West Lancashire Local Plan 2012-2027 Development Plan Document and National Planning Policy Framework -Protecting Green Belt Land.
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Decision

- The appeal is allowed and planning permission is granted for a ground floor extension, a three storey extension to the front of the house, refurbishment of the existing house and the raising of the roof to allow for the addition of a second floor together with the addition of dormers to the front and the rear of the property at Beechwood, 105 Ruff Lane, Ormskirk L40 6HA in accordance with the application Ref 2024/0851/FUL without compliance with condition number 4 previously imposed

on planning permission Ref 2023/1145/FUL granted on 19 July 2024 but subject to the conditions set out in the attached schedule.

Background and Main Issue

1. The appeal dwelling is a detached dwelling along Ruff Lane. This part of Ruff Lane is characterised by a variety of detached dwellings in a range of design and sizes, sited on large spacious plots. The site is located within the Green Belt.
2. Planning permission was granted for a ground floor extension, a three storey extension to the front of the house, refurbishment of the existing house and the raising of the roof to allow for the addition of a second floor together with the addition of dormers to the front and the rear of the property. Condition 4 of that permission 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, inter alia, extensions (Class A), roof extensions and alterations (Classes B and C), outbuildings (Class E) and walls, fences and enclosures (Part 2 Class A).
3. The application subject of this appeal (reference 2024/0851/FUL sought the removal of Condition 4, in respect of planning permission 2023/1145/FUL. The Council considers that the condition is necessary to protect the Green Belt. The appellant objects to the condition as they consider that exceptional circumstances have not been demonstrated to justify the condition.
4. Against that background and having regard to the reason for the disputed condition, the main issue is whether this condition is reasonable and necessary in the interests of protecting the Green Belt.

Reasons

5. Schedule 2, Part I to the GPDO sets out the permitted development rights for development within the curtilage of a dwellinghouse. These rights apply generally to all dwellings with specific exceptions for some classes but the GPDO does not withdraw the use of PD rights within the Green Belt, unlike in for example, National Parks and conservation areas. 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. Further the Planning Practice Guidance (PPG) states that ‘conditions restricting the future use of permitted development rights .. may not pass the test of reasonableness or necessity’. As such, a dwelling located within the Green Belt is no different in terms of the application of PD rights to a dwelling outside the Green Belt. Hence, PD rights should remain in place, even in the Green Belt, unless clear justification is advanced which is specific to the site.
6. The Council assessed at the time of determining application reference 2023/1145/FUL that the proposed extensions to the dwelling together with an outbuilding sited at the rear of the garden exceeded the 40% maximum set out in the Council’s Supplementary Planning Document Policy GB4. Based on this the Council concludes that the proposed extensions and outbuilding represent disproportionate additions to the original building and that any further enlargements, improvements or alterations would also represent disproportionate additions. However having allowed the extensions the subject of the application,

the Council found the proposal to be acceptable having regard to local and national Green Belt policies. Therefore in themselves the extensions proposed under planning reference 2023/1145/FUL, irrespective of their design, do not in themselves provide 'clear justification' for removing PD rights.

7. The appeal site is a detached dwelling towards the end of a ribbon development of detached dwellings along Ruff Lane and which forms part of an established residential area. It is enclosed on all sides by hedges and fences and is well screened in views from Ruff Lane. As such having regard to its character and the immediate surrounding area I am not persuaded that this property even if extended further as per its permitted development rights would harm or erode the openness of the Green Belt. Further I am satisfied that the GPDO provides for sufficient safeguards to prevent over development of the site. These restrictions place a limit on the size and height of the extensions which may be permitted. Any extensions or alterations would not project excessively from the sides or rears or extend beyond a wall forming the principal elevation of the original dwelling house. Nor would they be allowed to exceed the height of the roof line. In this context therefore any possible works that may be carried out to the appeal property would be subordinate to the dwelling. In the light of the scope of what could be built and the characteristics of the area I do not consider that the property if further extended or curtilage developed as per its permitted development rights would have an effect on the openness of the Green Belt or its purposes to justify the removal of PD rights.
8. Accordingly, I find that it has not been shown that there is clear justification for the removal of the permitted development rights under the stated Classes as set out in the Framework or the PPG. I therefore conclude that condition 4 is not necessary or reasonable in the interest of protecting the Green Belt. As such removal of the said condition would not be contrary to and would accord with Policy GN1(b) of the West Lancashire Local Plan and which seeks to protect the Green Belt from inappropriate development in accordance with the Framework.

Conditions

9. 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 other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. As the development has not been commenced, the commencement of development condition should run from the date of the original permission.

Conclusion

10. For the reasons given I conclude the appeal should be allowed for the grant of a new planning permission with conditions as set out in the formal decision.

K Winnard

INSPECTOR

***** Schedule of Conditions *****

1. The development must be begun no later than 19 July 2027.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:

Proposed Floor and Elevations Plans (310-PL-100 RevB, 310-PL-200 RevB)

Green Belt information;

Received by the local planning authority on 19 June 2024.

Site Location and Site Plan (310-Ex-050 RevC 310-PL-050 RevC) received by the local planning authority on 11 July 2024.
3. The materials to be used on the external surfaces of the development (brickwork, cladding and roofing materials along with materials used in any hard surfaces) shall be as outlined on the following plans and documents:

Section 10 of the submitted application form and proposed floor and elevation plans (310-PL-100 RevB, 310-PL-200 RevB) received by the local planning authority on 19 June 2024.