



Appeal Decision

Site visit made on 27 May 2025

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/P1805/W/25/3359974

Grey Cottage, Redditch Road, Hopwood, Birmingham B48 7TL

- 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 Arshad Lohar against the decision of Bromsgrove District Council.
 - The application Ref is 24/00630/S73.
 - The application sought planning permission for demolition of existing dwelling and erection of replacement dwelling with detached garage and new access without complying with a condition attached to planning permission Ref B/2002/1294, dated 31 December 2002.
 - The condition in dispute is No 3 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no development permitted under Article 3 and described within Classes A, B, C, D and E of Part 1 and Class A of Part 2 of Schedule 2 shall take place without the prior written consent of the Local Planning Authority.
 - The reason given for the condition is: To preserve the rural character of the site.
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Decision

1. The appeal is allowed and the planning permission Ref B/2002/1294 for demolition of existing dwelling and erection of replacement dwelling with detached garage and new access at Grey Cottage, Redditch Road, Hopwood, Birmingham B48 7TL, is varied by deleting condition No 3.

Background and Main Issue

2. The Council's evidence refers to the garden of the appeal site as having been extended by the purchase of agricultural land to the rear. Also, that planning permission for that change of use has not been sought. Nonetheless, that is not a matter for consideration in this appeal.
3. On the decision notice for the original permission granted in 2002, the reason for condition 3 was stated as being to preserve the rural character of the site. Whereas, the Council's reason for refusal and supporting evidence gives the reason as being to protect the openness and amenity of the Green Belt. Therefore, the main issue is whether condition 3 is reasonable and necessary in the interests of protecting the openness and amenity of the Green Belt.

Reasons

4. The National Planning Policy Framework (Framework) advises that planning conditions should not be used to restrict permitted development rights unless there is clear justification for so doing. The relevant permitted development rights

established by the GPDO¹ apply within the Green Belt unless they are withdrawn by other means, for example by a planning condition or powers under Article 4. Consequently, the location of a site within the Green Belt does not necessarily amount to clear justification for a condition such as No 3. Moreover, the GPDO sets out a range of conditions and limitations to control the size, scale and placement of such rights.

5. In the vicinity of the appeal site, houses are widely spaced and set back from Redditch Road (the Road) behind a grass verge and footpath. Also, the appeal house is set well back from the Road behind its front drive. This adds to the spacious character of the appeal site and its surroundings. Moreover, regardless of the lawful size of the rear garden, there is considerable space behind the dwelling comprising grassed land. The Road is bordered by mature landscaped front boundaries and hedges which limit views from the Road on to adjacent land and gardens. The position of the detached garage adjacent to the appeal site house also limits visibility through to its rear garden from the front of the house.
6. Policy BDP4 of the Bromsgrove District Plan 2011-2030 (January 2017) seeks to avoid inappropriate development in the Green Belt subject to certain criteria. BDP4.4c) allows for extensions up to a maximum increase of 40% of the original dwelling or a maximum floor space of 140sqm, provided that it does not harm the openness of the Green Belt. Whether or not enlargements or other alterations under permitted development rights would fully accord with criteria in Policy BDP4.4, I have found that the appeal site is located in an area with a spacious character. Also, that there is limited visibility of it from the Road and its surroundings. As such, in the circumstances of this case, I find that limitations within the GPDO would be sufficient to avoid implementation of permitted development rights causing harm to Green Belt openness here. No substantive evidence indicates otherwise.
7. The Council refers to other appeal decisions which are said to support the retention of the disputed condition. However, those appeal decisions and the circumstances under which they were made are not before me to enable a comparison. In any event, each case must be determined on its own merits and in light of its specific context.
8. Therefore, the location of the appeal site in the Green Belt does not provide clear justification for condition 3 here. Accordingly, the disputed condition is not reasonable or necessary in the interests of protecting the openness and amenity of the Green Belt. As the condition does not meet all of the six tests for planning conditions as set out in the Framework, it should be removed.

Conclusion

9. For the reasons given above, the appeal should be allowed.

Rachel Hall

INSPECTOR

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)