



Appeal Decision

Site visit made on 18 June 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2025

Appeal Ref: APP/B5480/W/24/3353600

Magnolia House, The Chase, Upminster RM14 3YB

- 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 Frank Nash against the decision of the Council of the London Borough of Havering.
- The application Ref P1058.24 was approved on 24 September 2024 and planning permission was granted subject to conditions.
- The development permitted is variation of condition No. 8 (permitted development) of planning permission P1401.11 dated 14/02/2012 (Demolition of existing class B8 warehouse and associated hardsurfaces and erection of three detached dwellings with detached garages and landscaping).
- The condition in dispute is No 6 which states that:
'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any subsequent legislation replacing and/or reenacting the provisions of the Order, the following works/development shall not be carried out and would require an express application for planning permission to be made (in addition to any restriction/limitation in the legislation applying at that time):
 - Any works/buildings/structures that would require planning permission by virtue of failure to comply with any part of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any subsequent legislation replacing and/or re-enacting the provisions of the Order
 - Any extensions to the roof(s) of any dwelling
 - Any extensions to any dwelling
 - Any building (other than an extension) within the rear garden greater than 30 square metres gross floorspace (measured externally)
 - Any wall, fence, gates or other means of enclosure, except for the replacement of existing boundary treatment to the same height or lower
 - Any additional hard surfaces forward of the principal elevation of the dwelling
 - Any non-permeable hard surfacing anywhere else'
- The reason given for the condition is:
'In the interests of amenity and to enable the Local Planning Authority to retain control over future development mindful of the very special circumstances for which permission was given and siting within the Metropolitan Green Belt, the siting of the dwelling within the Cranham Conservation Area and in order that the development accords with the objectives of the Havering Local Plan, London Plan and NPPF'.

Decision

1. The appeal is allowed and planning permission Ref P1058.24 for variation of condition No. 8 (permitted development) of planning permission P1401.11 dated 14/02/2012 (Demolition of existing class B8 warehouse and associated hardsurfaces and erection of three detached dwellings with detached garages and landscaping) at Magnolia House, The Chase, Upminster RM14 3YB granted on 24 September 2024 by the London Borough of Havering Council is varied by deleting condition 6.

Background and Main Issues

2. The appeal site (the site) is one of three neighbouring homes approved as one development in 2012 (the original permission)¹. Condition 8 of the original permission restricted permitted development (PD) rights across the three dwellings, such that extensions, roof extensions, roof alterations, hardstandings, and outbuildings or other means of enclosure within the garden areas required permission.
3. The reason for the condition was *'In the interests of amenity and to enable the Local Planning Authority to retain control over future development, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61'*.
4. The appellant sought the variation of condition 8 of the original permission so that it no longer applied to the appeal site. The Council approved the application, subject to condition 6 as set out in the banner heading above. The effect of this is that whilst the appellant may, subject to the terms of the General Permitted Development Order (2015) (the GPDO), undertake roof alterations, erect rear garden outbuildings up to 30m², and install permeable hard surfaces behind the principal elevation, PD rights remain otherwise withdrawn.
5. Given the reason for the condition, the main issues in the appeal are:
 - Whether the condition is reasonable and necessary with regard to the site's location within the Green Belt; and
 - The effect of the proposal on the character and appearance of the area, including the Cranham Conservation Area.

Reasons

6. Paragraph 57 of the National Planning Policy Framework (the Framework) states that planning conditions should be kept to a minimum and only imposed where they are, amongst other things, necessary, and reasonable in all other respects. Paragraph 55 says that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. Planning Practice Guidance (PPG) states that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity.
7. I note observations from both main parties as to whether the disputed condition amounts to the 'blanket' removal of PD rights. The term 'blanket' does not appear in the relevant chapter of the Framework, or in the sentence from the PPG referenced above. As such, even if the disputed condition is not a blanket removal of PD rights, the content of the Framework and PPG set out above is nevertheless applicable to the disputed condition.

Green Belt

8. PD rights are not withdrawn as a matter of course from dwellings in the Green Belt, indicating that domestic development flowing from such rights is, as a general point of principle, acceptable in the context of Green Belt policy. Notwithstanding

¹ Application Ref P1401.11.

the above, the Council contends that the very special circumstances leading to the original permission justify the disputed condition.

9. The committee report regarding the original permission describes how that scheme, essentially comprising the replacement of a lawful barn and associated elements with the three (now existing) dwellings, would improve the openness of the Green Belt. The relative visual impacts of the barn and the houses upon local character, and the relative volumes of the developments, were cited. For the purposes of this appeal, the Council contends that the original permission represented the maximum extent of development acceptable in this context.
10. Whilst the original permission was based on the merits of the houses as (then) proposed, it is not evident that any scheme including larger or different houses would have been incapable of improving Green Belt openness and, as such, obtaining approval. I have not been provided with any figures to show the volume of on-site development prior to, and as a result of, the original permission. As a result, I have no evidence that the original permission represents a justifiable maximum quantum. Overall, whilst I acknowledge the very special circumstances leading to the original permission, I have no reason to find that the development was identified as the maximum acceptable extent of development.
11. Given the above, I do not find the rationale behind the original permission to provide clear justification for the removal of permitted development rights. As such, I see no reason why the site should be treated differently to other homes in the Green Belt in respect of PD. The condition is not reasonable or necessary with regard to the site's location within the Green Belt.

Character and appearance; The CA

12. The site is in the Cranham Conservation Area (the CA). The statutory duty set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
13. With reference to the CA Character Appraisal and Management Proposals document, for the purposes of this appeal the significance of the CA is in its being a group of buildings in open country, unusual in the context of surrounding suburban development. The appeal site adheres and contributes to this; it is a large, mostly open plot. There are generous gaps to either side of the main dwelling, between the dwelling and the road, and a deep, wide back garden.
14. Whilst I have no indication that the appellant desires such an outcome, the most significant potential implication of the appeal succeeding is for the site to be developed as fully as possible, to the limits of the GPDO. It is not evident however that, even in such circumstances, the space around the appeal site dwelling would be eroded to the point that it would cease to appear as a building in open countryside.
15. As the site is in the CA the GPDO does not permit side extensions, or roof extensions. I see no reason to treat the front elevation of the dwelling as anything other than its principal elevation and, as such, am content that the proposal would not allow extensions to the front. Any rear extension would be limited to a single-storey and be no deeper than 4m, thereby leaving some 50m of garden beyond.

16. I recognise that the size of the plot would potentially lend itself to the provision of larger outbuildings than would be possible elsewhere. That said, I am also mindful that any outbuildings could not be alongside or in front of the dwelling and would, in addition to meeting the dimensional stipulations in Schedule 2, Part 1, Class E of the GPDO, also need to be required for a purpose incidental to the enjoyment of the dwellinghouse as such. These are notable restrictions on the potential extent of any such development, and the proposal would not allow outbuildings capable of altering the fundamental character of the site.
17. Any wall, fence, gates or other means of enclosure the appellant may deploy using PD rights would be no higher than that which already exists. If additional hard surfaces were created forward of the principal elevation of the dwelling, they would not reduce the open character of the site forecourt.
18. Furthermore, as the site is in the CA the GPDO does not allow development consisting of or including cladding of any part of the exterior of the dwelling with stone, artificial stone, pebble dash, render, timber, plastic or tiles. It also requires that the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. I see no reason to think that such works that could be undertaken using PD rights would harm the appearance of the appeal site dwelling, or its contribution to the character and appearance of the area and the CA, therefore.
19. Overall, even if the appellant were to use PD rights to the full, the results would be modest. I find the proposal would not give rise to the potential for harm to the character and appearance of the area, including the Cranham Conservation Area.

Other Considerations

20. I recognise that the disputed condition does not necessarily prevent development at the site but, instead, requires that it be subject to assessment. I also recognise that the future evolution of PD rights cannot be accurately predicted. Both, however, are true in any instance where conditions are used to restrict PD rights, and the Framework and the PPG are nevertheless clear that such conditions are unlikely to meet the tests of reasonableness and necessity and require clear justification. Such considerations have, therefore, carried very little weight in my determination.

Other Matters

21. The CA Character Appraisal states that the CA includes grade II listed buildings at the Church of All Saints, a railed tomb to its west, Cranham Hall, and the garden walls of Cranham Hall. Nos. 62, 64, 68 and 70 Front Lane are on the Council's Local List. The Council has not cited any harm to these heritage assets and, given their distance from the appeal site and the lack of intervisibility, I see no reason to take a different view.

Conclusion

22. For the reasons given above, the appeal is allowed.

A Knight

INSPECTOR