



Appeal Decision

Site visit made on 10 June 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2025

Appeal Ref: APP/K0425/W/25/3360906

Former agricultural buildings to west of Partridge Lodge, Coppice, Frieth Road, Marlow, Buckinghamshire SL7 2JQ

- 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 M Evans against the decision of Buckinghamshire Council.
- The application Ref 24/06605/VCDN was approved on 16 September 2024 and planning permission was granted subject to conditions.
- The development permitted is variation of condition 2 (Plan numbers) attached to 23/08109/VCDN to allow for substitution of approved drawings. (Demolition of existing outbuildings, erection of 1 x 3-bed dwelling with subterranean level swimming pool, plant and cycle shed, associated hard and soft landscaping, rainwater harvesting system and creation of x 3 parking spaces (alternative scheme to pp 22/08064/FUL)).
- The condition in dispute is No 7 which states that: *"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), no development falling within Classes A, B, C, D, E and F of Part 1 of Schedule 2 shall be carried out without the prior, express planning permission of the Local Planning Authority."*
- The reason given for the condition is: *"In order that the Local Planning Authority can properly consider the effect of any future proposals on the character and amenity of the locality."*

Decision

1. The appeal is allowed and the planning permission Ref 24/06605/VCDN, for variation of condition 2 (Plan numbers) attached to 23/08109/VCDN to allow for substitution of approved drawings (demolition of existing outbuildings, erection of 1 x 3-bed dwelling with subterranean level swimming pool, plant and cycle shed, associated hard and soft landscaping, rain water harvesting system and creation of x 3 parking spaces (alternative scheme to pp 22/08064/FUL)) at Former agricultural buildings to west of Partridge Lodge, Coppice, Frieth Road, Marlow, Buckinghamshire SL7 2JQ, granted on 16 September 2024 by Buckinghamshire Council, is varied by deleting Condition 7.

Preliminary Matters

2. I have taken the address from the appellant's appeal form as, given there are several buildings associated with Coppice on Frieth Lane, this more accurately describes the site.

Background and Main Issues

3. The site benefits from several extant planning permissions for replacement of the existing buildings with a new dwelling. Planning permission 24/06605/VCDN included a condition removing permitted development rights for enlargement, improvement, and other alterations to the new dwelling, including porches,

additions and alterations to the roof, new buildings, and hard surfaced areas incidental to the enjoyment of the dwellinghouse.

4. The Council's statement indicates that the condition is necessary to protect the rural character and setting of the location, which includes the Green Belt and Chilterns National Landscape. The appellant objects to the condition as they consider that exceptional circumstances have not been demonstrated to justify it.
5. Against that background and having regard to the reason for the disputed condition and the Council's submissions, the main issue is whether condition 7 is reasonable and necessary in the interests of protecting the character and appearance of the Green Belt and the National Landscape.

Reasons

6. The appeal site comprises a group of buildings situated within the Green Belt and the Chilterns National Landscape but outside of the defined settlement boundary. Nevertheless, the site is at the end of a row of existing properties on the northeastern side of Frieth Road. The approved new dwelling would appear single storey with a basement, subterranean, level. It would be set within a large plot and set back from Frieth Road with only glimpsed views of the property available from near the existing housing.
7. Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) sets out the permitted development (PD) rights for development within the curtilage of a dwellinghouse. These rights apply generally to all dwellinghouses, with specific restrictions for development on Article 2(3) land. This is defined in the Order as including land within a National Landscape (formerly area of outstanding natural beauty), amongst other areas, but does not include land falling within the Green Belt.
8. Given the specific areas of land included under Article 2(3), it can be surmised 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. Land in the NL is different, yet the Order already places restrictions on PD within these areas.
9. The requirement of the National Planning Policy Framework (the Framework) is that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. The Planning Practice Guidance states that 'conditions restricting the future use of permitted development rights ... may not pass the test of reasonableness or necessity.'
10. Therefore, the starting point is that PD rights should remain in place, even in the Green Belt and NL, unless clear justification is advanced which is specific to the site. I acknowledge that the dwelling approved under 24/06605/VCDN has a larger basement area than the original planning permission for a new dwelling on this site and also included outbuildings. Nevertheless, the Council considered the larger dwelling and outbuildings acceptable and in compliance with the adopted policies of the Wycombe District Local Plan, August 2019 (the LP).
11. The Order allows for additional development to be built without planning permission. However, it would not allow for substantial additions given the restrictions placed on development on Article 2(3) land. For example, the size of

any extensions is restricted under Class A, and specifically A.2, and Class B enlargements to the roof are not permitted in Article 2(3) areas. Furthermore, the restrictions under Class E would also ensure that no more than 50% of the curtilage is occupied by outbuildings, that no outbuilding is more than single storey, and that none exceed four metres in height. The Order includes several of the restrictions set out in Part 2 of Policy DM43 of the LP.

12. I recognise that, if PD rights are reinstated, it may be possible to erect outbuildings that would exceed 25% of the volume of the original buildings or the 140 cubic metres restrictions set out in DM43. I also recognise that disproportionate additions are a form of inappropriate development in the Green Belt. However, the Order also limits the size and position of outbuildings in Article 2(3) land under E.2 and E.3 and these restrictions would limit the extent and position of outbuildings that could be built.
13. Moreover, the majority of existing dwellings across the Green Belt and NL retain and may exercise PD rights without reference to the effect on the openness of the Green Belt or the beauty of the NL. Albeit the appeal site has a large plot, the circumstances described by the Council are not unique to the appeal site.
14. The fact that PD rights have not been removed for land in the Green Belt means that the Government's fundamental Green Belt aims, of preventing urban sprawl by keeping land permanently open, do not extend to preventing permitted development within a domestic curtilage. Given this position and bearing in mind the limitations of the Order in terms of size and position of development permitted, I am not persuaded that the site circumstances are such that extensions or alterations to the dwelling, or outbuildings within its plot, would have such an effect on either the spatial or visual aspect of the openness of the Green Belt, or its purpose, to justify removal of PD.
15. Additionally, I am not persuaded that development under PD rights would adversely affect the character and appearance of the area, including the NL, especially given the constraints on the size and position of alterations, extensions, and outbuildings in Article 2(3) land.
16. There is also no certainty that an occupier would utilise PD rights in a way that conflicted with Green Belt policy or with the character and appearance of the NL. For the above reasons, it has not been shown that there is clear justification for the removal of PD.
17. Accordingly, Condition 7 is not reasonable or necessary in the interests of protecting the character and appearance of the Green Belt and the National Landscape. Therefore, the removal of this condition in itself would not be contrary to Policies CP9, DM30, DM35, DM42 or DM43 of the LP. Collectively these policies seek to ensure that development delivers a high quality sense of place, conserves and, where possible, enhances the natural beauty of the NL, improves the character of the area, limits development in the Green Belt, and limits the size of replacement dwellings, extensions, and outbuildings in the Green Belt.

Other Matters

18. The appellant has drawn my attention to a recent planning application on the same site which proposed the erection of two dwellings. Although that application was refused by the Council it accepted that the proposal was not inappropriate

development in the Green Belt due to compliance with the grey belt provision set out in paragraph 155 of the Framework. I note the officer report submitted by the appellant. However, given my findings above this more recent application is not determinative in the appeal before me.

Conclusion

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

K Townsend

INSPECTOR