



Appeal Decision

Site visit made on 16 July 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 July 2025

Appeal Ref: APP/H1515/W/25/3360240

The Barn, Green Lane, Kelvedon Hatch, Essex CM14 5TD

- 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 Terry Sharp against the decision of Brentwood Borough Council.
- The application Ref is 24/01026/FUL.
- The application sought planning permission for the demolition of existing dwelling and buildings and construction of replacement dwelling, with private amenity and car parking without complying with conditions attached to planning permission Ref 18/00251/FUL, dated 25 May 2018.
- The conditions in dispute are Nos 8 and 9 which state that:
 - (8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), the dwelling hereby permitted shall not be extended or enlarged in any way without the prior grant of specific planning permission by the local planning authority.
 - (9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order) no development falling within Schedule 2, Part 1, Class E of that Order ('buildings etc incidental to the enjoyment of a dwellinghouse') shall be carried out without the prior grant of specific planning permission by the local planning authority.
- The reason given for the conditions 8 is: To allow the planning authority to be able to manage further enlargements to prevent the creation of a dwelling of disproportionate size that would conflict with the policies of restraint within the Green Belt.
The reason given for condition 9 is: To allow the planning authority to be able to manage further enlargements to prevent the creation of a dwelling of disproportionate size and a proliferation of outbuildings that would conflict with the policies of restraint within the Green Belt.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted for a replacement dwelling known as The Barn in May 2018¹ (the original permission). The application form confirms that the dwelling granted by the original permission was completed in 2019. The Council's evidence indicates that the dwelling which The Barn replaced was itself a replacement dwelling, granted in 1999² (the previous replacement dwelling permission). This was subsequently confirmed through an application for a lawful development certificate³.
3. The appellant seeks to remove Condition 8, which removed permitted development (PD) rights under Part 1 of Schedule 2 of the Town and Country

¹ Council ref: 18/00251/FUL

² Council ref: 98/00691/FUL

³ Council ref: 15/01239/S191

Planning (General Permitted Development) Order 2015, as amended (the Order), for extensions or enlargements to The Barn. The appellant also seeks to vary Condition 9, which removed PD rights under Class E of the Order, for the erection of buildings etc incidental to the enjoyment of the dwellinghouse, so that this restriction applies only to part of the appeal site.

4. The main issue is whether Conditions 8 and 9 are reasonable and necessary in the interests of protecting the openness of the Green Belt.

Reasons

5. The appeal site is located in the Green Belt on Green Lane, a narrow rural route with hedgerow and mature trees lining the majority of both its sides, with occasional glimpses of the countryside achievable. This verdant edge combined with the spacious arrangement of the limited number of buildings along the lane, contributes positively to its country-lane character, which assimilates well with the wider rural setting.
6. The Barn comprises a single storey dwelling with associated land used as garden and paddock. It is accessed via a gated driveway leading off Green Lane. A two-storey dwelling known as Woodberry, is located forward of and to the side of The Barn. A cluster of agricultural/commercial buildings are also visible to the rear of the site. Even so, the modest scale of The Barn, combined with the openness of its associated land, helps the appeal site blend into the rural character and appearance of the locality.
7. There is no dispute between the main parties that the built form approved by the original permission was not materially larger than the building it replaced. On this basis, the Council's delegated report confirms that the original permission was not considered to represent inappropriate development in the Green Belt. Even so, the evidence indicates that the disputed conditions were imposed to control the future enlargement of the replacement dwelling and the erection of outbuildings. This was intended to prevent The Barn from becoming materially larger than the original building and thereby constituting inappropriate development in the Green Belt. The Council also confirms that conditions removing PD rights were also attached to the previous replacement dwelling permission.
8. The location of the appeal site within the Green Belt is not, in itself, adequate justification for the removal of PD rights. The National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) clearly state that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity and should not be used unless there is clear justification for doing so. One of the reasons for this is likely to be because the Order itself does not restrict PD rights in the Green Belt. Consequently, PD rights for dwellings within the Green Belt are no different to those in other locations and some loss of openness is therefore anticipated, limited to the scale permitted by the Order.
9. As such, it is reasonable to assume that PD rights should not be removed, unless there is clear justification for such an approach to be taken based on the circumstances and individual merits of the particular case.
10. The essential characteristics of Green Belts are their openness and their permanence, and the fundamental aim of Green Belt policy is to prevent urban

sprawl by keeping land permanently open. Openness is epitomised by the lack of buildings or development and can have a spatial and visual aspect.

11. There is dispute between the main parties regarding the extent of the garden associated with The Barn. However, it is not within the remit of an appeal made under section 78 of the Town and Country Planning Act 1990 (as amended) to determine this matter. Irrespective of its lawful extent, there is a realistic prospect that the removal of Conditions 8 and 9 could result in additional built development on the site, beyond that approved in the original permission, should development utilising PD rights be constructed in the future. Whilst views from outside the appeal site are limited, an increased spatial and visual harmful effect on the openness of the Green Belt could result from the utilisation of the full extent of enlargement and/or the erection of outbuildings that could be constructed under PD rights. Cumulatively, such development could result in increased visual harm to openness.
12. If a proposed development would only be acceptable if certain PD rights are not exercised in the future, then in my view it is both necessary and reasonable to impose conditions to withdraw those rights. Furthermore, the conditions do not necessarily prevent future development but allows the Council to control it through the planning application process. This is not an unreasonable approach given my findings above, the evidence provided and the specific circumstances of the case including the context and characteristics of the appeal site. Therefore, the conditions are reasonable and necessary in the interests of protecting the openness of the Green Belt. Whilst the appellant's suggestion to vary Condition 9 to apply only to a smaller area denoted by the green line on drawing number 325-A-101, this would not overcome the harm identified.
13. I conclude that Conditions 8 and 9 are reasonable and necessary in the interests of protecting the openness of the Green Belt. The removal of the conditions would conflict with Policies MG02 and BE14 of the Bentwood Local Plan 2016 – 2033 (2022) which require the Green Belt to be preserved from inappropriate development so that it continues to maintain openness and serve its key functions and for proposals to respond positively and sympathetically to their context.
14. While Condition 8 does not refer to specific classes in the Order, it is nevertheless sufficiently clear that any extension or enlargement to The Barn would be captured by its provisions. Overall, the conditions are considered to be necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects in accordance with the Framework.

Conclusion

15. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR