



Appeal Decision

Site visit made on 5 August 2025

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 20th August 2025

Appeal Ref: APP/P1940/W/25/3366715

Batchworth Heath Farm, Batchworth Heath, Rickmansworth, WD3 1QB

- 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 Farouq Sheikh against the decision of Three Rivers District Council.
 - The application Ref is 24/1594/FUL.
 - The application sought planning permission for Part Retrospective: Change of use of land as an amendment to the residential curtilage, associated landscaping changes including formal garden areas, hard standing for vehicular access and parking and installation of entrance gate and pillars without complying with a condition attached to planning permission Ref 23/1221/RSP, dated 17 November 2023.
 - The condition in dispute is No 6 which states that: From the date of this planning permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development in Class E of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 to that Order shall be carried out on the site without the prior written consent of the Local Planning Authority.
 - The reason given for the condition is: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the Metropolitan Green Belt, in accordance with Policies CP1 CP11, and CP12 of the Core Strategy (adopted October 2011) and Policy DM1, DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission (23/1221/RSP) sought permission for a change of use of land as an amendment to the residential curtilage, associated landscaping changes including formal garden areas, hard standing for vehicular access and parking and installation of entrance gates and pillars. This was granted, subject to conditions. The appellant seeks the removal of Condition 6, which restricts the use of permitted development rights under Class E of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('GPDO').
3. The appeal site has a long and varied planning history, primarily involving the original agricultural dwelling and subsequent extensions, refurbishments, and lawful development certificates. The original house and garage were permitted in 1966, with detailed designs approved in subsequent years. Over time, the property underwent significant changes, including the construction of a two-storey extension for farm-related uses, a swimming pool and conservatory, and various

alterations to the dwelling and its annexe. Notably, a pool house was approved in 2015, while the annexe was demolished and rebuilt under permissions granted in 2018 and 2019.

4. An enforcement investigation (20/0150/COMP) is currently ongoing in relation to alleged unauthorised works on the wider site, including access, hardstanding, and outbuildings. However, this is not a matter of consideration in this appeal.

Main Issue

5. The main issue is whether or not Condition 6 is necessary and reasonable in the interests of protecting the openness of the Green Belt.

Reasons

6. The Planning Practice Guidance ('PPG') confirms that permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application. Subject to specific limitations and conditions, these rights enable homeowners to undertake a range of developments, including property extensions, the erection of outbuildings, and the installation of gates, fences, walls. The scope of what can be achieved under permitted development rights are potentially significant, depending on the site context. Accordingly, permitted development rights can be limited or excluded if they affect protected areas known as article 2(3) land, which covers: conservation areas, Areas of Outstanding Natural Beauty (now National Landscapes), National Parks, the Broads and World Heritage Sites.
7. The National Planning Policy Framework ('Framework') states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. As a result, most forms of new development are considered inappropriate unless they meet specific exceptions. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As such, when considering any planning application, local planning authorities are required to ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Nonetheless, the GPDO confirms that permitted developments rights have not been withdrawn (in total or in part) in the Green Belt.
8. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. In addition, the PPG states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the GPDO, so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
9. The appeal site is a large, detached property which is located within the Green Belt. The house and annexe are situated within a defined residential curtilage that includes ancillary buildings and areas of hardstanding. Beyond this curtilage, a

large open field extends outwards, forming part of the wider landholding under the ownership of the applicant.

10. Planning permission 23/1221/RSP included, among other elements, a small increase in the residential curtilage, with the intention of rationalising the relationship of the residential area with the land beyond. The appellant states that the residential curtilage is set tightly around the existing buildings and access road. The plan TOR-15 Rev A supports this interpretation as it illustrates that the proposed curtilage primarily encompasses the access drive, main house, annexe, and pool house. Notably, the plan also identifies an “area of agricultural uses” situated beyond the defined curtilage. While the terminology varies slightly between parties, this broader area is generally referred to as a large agricultural field, which is representative of the open countryside by contributing to the wider rural setting.

Class E

11. Class E relates to buildings etc incidental to the enjoyment of a dwellinghouse and permits the provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure.
12. Although the term curtilage is not explicitly defined within the GPDO, the relevant Technical Guidance¹ provides a working definition as land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area. As such, the term generally refers to land which serves the purpose of a building in some reasonably necessary or useful manner; it has been held that the tests of physical layout, ownership (past and present) and use (past and present) apply.
13. Based on the planning history and the terminology used by both parties, I am satisfied that the residential curtilage is confined to the area immediately surrounding the dwellinghouse, as amended and approved under planning permission 23/1221/RSP. This does not include the adjacent agricultural field, which remains outside the defined curtilage. Accordingly, any development permitted under Class E of the GPDO would be limited to this smaller, domestic area.
14. There is no dispute between the parties that planning permission 23/1221/RSP enabled an increase in built form compared to what previously existed. Additionally, permitted development rights had already been exercised to construct the half-crescent shaped, flat-roofed outbuilding/pool house under reference 15/0534/CLPD.
15. In this context, the Council found that while the impact of the curtilage extension could be mitigated, the extended area remained susceptible to urbanisation due to the increase in built form. As a result, the disputed conditions were imposed to regulate any future enlargement of the dwelling and the construction of additional outbuildings. These conditions were specifically intended to prevent further

¹ Permitted development rights for householders Technical Guidance (2019)

urbanisation of the appeal site, which could otherwise constitute inappropriate development within the Green Belt.

16. The essential characteristics of Green Belts are their openness and permanence. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Assessing openness requires a site-specific judgment, which may involve consideration of both spatial and visual aspects, as well as factors such as the duration, remediability, and the degree of activity likely to be generated by the proposed development.
17. The location of the appeal site within the Green Belt does not, in itself, constitute sufficient justification for the removal of permitted development rights. As such, it is reasonable to assume that such rights should remain intact unless there is a clear and site-specific justification for their removal, based on the individual merits and circumstances of the case.
18. There is a realistic prospect that the removal of Condition 6 could result in additional built development on the site, beyond that which has been explicitly approved. The condition was imposed for site-specific reasons, particularly in response to previous increases in built form and the cumulative impact of development both within the appeal site and Green Belt. The exercise of this permitted development rights would likely result in further spatial and visual harm to the openness of the Green Belt. Taken cumulatively, such development would likely intensify the urbanising effect and undermine the fundamental aim of Green Belt policy to keep land permanently open.

Class A

19. Class A relates to the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.
20. The Council confirm that the construction of the existing gates and pillars did not fall within any of the relevant exceptions outlined in the Framework. As such, the development was considered inappropriate within the Green Belt. Although some soft landscaping was introduced, the gates and pillars were deemed uncharacteristic features that contributed to an urbanising effect on the otherwise open and rural character of the area. They would be particularly visible from public views, given their position along the boundary of the appeal site. However, the Council determined that very special circumstances existed, particularly when balanced against existing permitted development rights. Nonetheless, this resulted in the imposition of Condition 6. Given the development history of the appeal site, I am satisfied that this was a reasonable and proportionate approach to regulate any further development. It appropriately reflects the inappropriate nature of earlier development and the sensitivity of the site's location.

Conclusion

21. The appellant has referred to another appeal decision² which related to the removal of a condition which restricted permitted development rights. In that case, the Council concluded that the previous extensions were likely to be acceptable under both local and national Green Belt policies. This current appeal differs significantly, as the Council found that the previous planning permission

² Ref: APP/P1940/W/21/3275230

constituted inappropriate development, which was only approved due to the presence of very special circumstances and the application of Condition 6. Therefore, I am not persuaded that the circumstances in the referenced appeal are directly comparable to those in the case before me, and I attribute it only limited weight.

22. I recognise that the appeal site would have limited visibility from public viewpoints, being sited well back from the road and a significant distance from neighbouring properties. However, it would nevertheless have some visitors or workers from time to time and lack of visibility is not a justification for poor design. The Framework, for instance, explains that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities
23. Both Class E and Class A developments have the potential to incrementally erode the openness of the Green Belt. If a proposed development would only be acceptable if certain permitted development rights are not exercised in the future, then in my view it is both necessary and reasonable to impose a condition to withdraw those rights. Furthermore, the condition does not necessarily prevent future development but allows the Council to control it through the planning application process. It does not result in an area-wide or blanket removal of permitted development rights, as it only restricts development under Class E and Class A. 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 condition is reasonable and necessary in the interests of protecting the openness of the Green Belt.
24. I conclude that Condition 6 is necessary and reasonable in the interests of protecting the openness of the Green Belt. The removal of the condition would conflict with Policies CP1, CP11 and CP12 of the Core Strategy 2011 and Policies DM1 and DM2 of the Development Management Policies Local Development Document 2013. These collectively seek to protect the natural and built environment from inappropriate development, particularly where it would not preserve the openness of the Green Belt.
25. The Council also cites conflict with Appendix 2 of the Development Management Policies Local Development Document 2013. However, this appendix policy primarily provides detailed design criteria. I have not been drawn to any wording in these document that relate to this main issue. Accordingly, it has not been referred to in my conclusion.
26. For the reasons given above, I consider that the condition meets all the tests for conditions set out in the Framework and continues to serve an important planning purpose. The condition should be retained and consequently, the appeal should be dismissed.

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INSPECTOR