



Appeal Decision

Site visit made on 6 October 2025

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th October 2025

Appeal Ref: APP/B1550/W/25/3370277

Jofrema, Montefiore Avenue, Rayleigh, Essex SS6 9QU

- 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 John Grayer against the decision of Rochford District Council.
 - The application Ref is 25/00310/FUL.
 - The application sought planning permission to demolish existing dwelling and erect 3-bed chalet with private drive without complying with conditions attached to planning permission Ref F/0565/91/ROC, dated 28 February 1992.
 - The conditions in dispute are Nos 3 and 4 which state that:
 - (3) *Notwithstanding the provisions of Article 3, Schedule 2 and Part 1 of the Town and Country Planning General Development Order 1988 (or any order revoking and re-enacting that order) no extensions, porches, garages or outbuildings shall be erected within the curtilage of the dwelling hereby approved.*
 - (4) *Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 (or any order revoking and re-enacting that order), no alterations, including the enlargement of or the provision of additional window openings, including dormer windows and rooflights shall be made to the fenestration pattern as shown on the approved plan drawing no. 3 date stamped 21st August 1991.*
 - The reason given for the conditions is: *The property is situated within the Metropolitan Green Belt where extensions to dwellings are limited in size in accordance with the requirements of Policy GB6 of the Rochford District Local Plan.*
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing dwelling and erect 3-bed chalet with private drive at Jofrema, Montefiore Avenue, Rayleigh, Essex SS6 9QU in accordance with the application Ref 25/00310/FUL, without compliance with condition numbers 1, 3 and 4 previously imposed on planning permission Ref F/0565/91/ROC dated 28 February 1992 and subject to the following conditions:
 - 1) A schedule of materials to be used on external surfaces shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the use of these materials shall be strictly adhered to.
 - 2) Prior to the occupation or within three months of completion (whichever is the sooner) of the dwelling hereby permitted, the existing dwelling marked 'A' on the plans (nos. 2B & 3) returned herewith, shall be demolished and removed from the site. In any event, the existing dwelling shall be demolished and removed from the site within 15 months of commencement of development on the new dwelling.

Preliminary Matter

2. The original permission was granted under a previous development plan. Policy GB6 referred to in the reason for the imposition of the conditions has been replaced by Policy DM21 of the Rochford District Council Development Management Plan (DMP) (2014). This policy addresses the scale and control of development in the Green Belt and therefore remains relevant to the original reasoning for the imposition of conditions 3 and 4.

Background and Main Issue

3. Planning permission was granted in 1992 for a replacement dwelling which has subsequently been constructed. The dwelling, known as Jofrema, is a detached dwelling set within a spacious plot with associated detached outbuildings. The site lies within the Green Belt.
4. In granting permission, the Council imposed conditions 3 and 4, which together removed permitted development (PD) rights under several classes of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). The reason for the imposition of the conditions was due to the property being situated within the Green Belt.
5. Accordingly, the main issue is whether the disputed conditions are necessary or reasonable to make the development acceptable in planning terms, having regard to the site's location in the Green Belt.

Reasons

6. Policy DM21 of the Council's DMP relates to the replacement or rebuild of existing dwellings within the Green Belt. Amongst other matters, the policy states that permission for such forms of development, *"will be conditioned withdrawing further permitted development rights relating to the extension of the dwelling or provision of outbuildings within the curtilage of the dwelling."*
7. Paragraph 57 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. Planning Practice Guidance (PPG) reinforces this, stating that, *"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."*
8. The Order outlines the PD rights which apply for all dwellinghouses, albeit some classes set out exceptions that the rights do not apply on Article 2(3) land. This is defined in the Order as, inter alia, land within a conservation area, an area of outstanding natural beauty, a National Park, and a World Heritage Site.
9. It can be inferred from the omission within this definition of land within the Green Belt, that the Government's intention is for dwellinghouses within the Green Belt to have their PD rights intact. This suggests that the type and size of development permitted through the Order would not be inappropriate development in the Green Belt as a matter of course. Consequently, the starting point is that PD rights should remain in place, even in the Green Belt, unless clear justification is advanced which is precisely defined and specific to the site. The fact that the appeal property

is within the Green Belt does not in itself provide the clear justification required for the disputed conditions.

10. The appellant has referred to various appeal decisions¹, which relate to cases both elsewhere within the District, as well as elsewhere within the Country, where previous Inspectors have concluded that conditions removing PD rights is neither reasonable nor necessary. The Council has sought to discredit the relevance of the appeals outside of the District on the basis that no adopted policy restricting PD rights was in place.
11. Paragraph 232 of the Framework confirms due weight should be given to policies, according to their consistency with the Framework. Based on the above discussion, the blanket removal of PD rights through Policy DM21 of the Council's DMP is inconsistent with and does not fully align with the objectives of the Framework. In the circumstances of this case, the provisions of the Framework, which postdate the 2014 adoption of the DMP take precedence and form a significant material consideration in my decision.
12. I have little in the evidence before me to confirm the size of the existing dwelling relative to the dwelling which it originally replaced. Despite the conditions not being challenged at the time of the original decision, based on the evidence before me I cannot be satisfied that there was an enlargement which would have justified the imposition of the disputed conditions.
13. The appeal site represents a relatively spacious plot, within a surrounding area where development forms a low density set within mature landscaping. I acknowledge that additions or alterations undertaken through PD rights could influence the areas rural character. Nevertheless, the setting of the appeal site would be a typical characteristic of many areas within the Green Belt. These circumstances are therefore not unique to the appeal site and do not represent clear, site specific justification to adequately demonstrate how the exercise of PD rights within the appeal site would be implicitly harmful to the Green Belt.
14. The Council has drawn my attention to other appeal decisions within the District. This includes a decision within Barling (reference APP/B1550/D/15/3135187) which related to extensions to a dwelling within the Green Belt. In that case, it appears that the Inspector found harm to the Green Belt through the proposals representing a disproportionate addition.
15. That decision was based on a specific consideration of intended development outside of PD rights and is therefore not directly relatable to the appeal proposal before me. The Inspector's decision, dated 2 December 2015, gave clear weight to the recent adoption of the Council's DMP. Given the passage of time since that decision, and the publication of the revised Framework within that time, this position is no longer relevant. I find little within that decision to suggest that the Inspector was supportive of a proactive removal of PD rights.
16. Reference has also been made to a decision in Hockley (reference APP/B1550/W/17/3189704) which related to a proposal for new dwellings within the Green Belt, which the Inspector allowed subject to conditions, including one removing PD rights for various classes. The reason given for the imposition of the condition was in the interest of protecting the Green Belt.

¹ APP/Z4718/W/21/3268030, APP/P2365/W/21/3273049, APP/B1550/W/24/3347587 & APP/B1550/W/24/3353859

17. Notwithstanding that the date of this decision, 12 June 2018, pre-dates the current Framework, I do not have the full details of that case to be satisfied that it is directly comparable to the appeal proposal before me. It is plausible that in that case the Inspector determined that based on the specific proposal for new dwellings, the use of PD rights would have been harmful to the Green Belt. As above, I am not convinced that in this case, there are site specific circumstances which mean that the exercise of PD rights would be harmful to the Green Belt.
18. The removal of the disputed conditions would lead to conflict with Policy DM21 of the Council's DMP. However, given that this policy conflicts at least in part with the Framework, I have given it limited weight in my decision. When having regard to the Framework and PPG, I conclude that it has not been demonstrated that there is clear justification for the removal of PD rights. Thus, conditions 3 and 4 of the original permission are not reasonable or necessary to make the development acceptable in the context of the site's location within the Green Belt.

Conditions

19. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
20. The development has commenced and therefore there is no need for me to re-impose condition 1. Condition 2 required the submission of a schedule of materials and compliance with the approved details. Condition 5 related to the demolition of the previous dwelling and its removal from the site. As I have no information within the evidence before me about the status of conditions 2 and 5 imposed on the original planning permission, I shall re-impose them to my decision. In the event that they have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

21. For the reasons given above the appeal should be allowed, and a new planning permission is granted, without conditions 1, 3 and 4.

L Gardner

INSPECTOR