



Appeal Decision

Site visit made on 31 March 2025

by **J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Appeal Ref: APP/K2230/W/24/3351129

Rockley House, Wrotham Road, Culverstone, Gravesend, Kent DA13 0QN

- 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 Mrs Ann Green against the decision of Gravesend Borough Council.
 - The application Ref is 20240579.
 - The application sought planning permission for the conversion and change of use of existing detached garage building to a two bedroom dwelling with provision of two parking spaces without complying with a condition attached to planning permission Ref 20230700, dated 21 February 2024.
 - The condition in dispute is No 10 which states that: Notwithstanding the provisions of Article 3, Part 1 Classes E and F of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended or any provision equivalent to those classes in any statutory instrument revoking and re-enacting that Order, with or without modification, no building or enclosure for a purpose incidental to the enjoyment of Rockley House nor any hard surface shall be constructed within the curtilage of Rockley House.
 - The reason given for the condition is: Given the site is located in the Green Belt in order that any further development at the site would be the subject of a planning application that the Local Planning Authority would wish to determine on its merits in regard to Policy CS19 of Gravesend Local Plan Core Strategy (2014).
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Decision

1. The appeal is allowed and planning permission is granted for the conversion and change of use of existing detached garage building to a two bedroom dwelling with provision of two parking spaces at Rockley House, Wrotham Road, Culverstone, Gravesend, Kent DA13 0QN in accordance with the application Ref 20240579, without compliance with condition number 10 previously imposed on planning permission Ref 20230700 dated 21 February 2024 and subject to the conditions in the attached Schedule.

Background and Main Issue

2. Rockley House is a two-storey dwelling to the rear of a row of mature trees forming the front boundary of the site. To the side of the dwelling is a detached outbuilding. The site is within the Green Belt. Planning permission has been granted for the conversion of the outbuilding to a two bedroom dwelling under reference 20230700, with the Delegated Report stating that the proposal was not inappropriate development in the Green Belt.
3. The permission included, at Condition 10, that permitted development rights would be removed for the existing dwelling, Rockley House, in respect of buildings and hard surfaces. Application reference 20240579 sought to remove Condition 10 in order to allow for permitted development rights to be retained.

4. The main issue therefore is whether the condition is necessary and reasonable to protect the Green Belt from harm.

Reasons

5. Paragraph 55 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In addition, the Planning Practice Guidance (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.
6. Moreover, unlike with other locations such as those within Conservation Areas and National Parks, the Town and Country Planning (General Permitted Development) (England) Order 2015 does not remove permitted development rights in the Green Belt. This indicates that the Government considers the implementation of permitted development rights to be acceptable in the Green Belt.
7. The Council states that Condition 10 is required to safeguard the Green Belt from harm, to avoid uncontrolled outbuildings and hardstanding. However, in granting permission for the conversion of the outbuilding, the Council concluded that the proposal was not inappropriate and therefore would not harm the Green Belt.
8. The conversion of the outbuilding would lead to the loss of the garage and storage space related to Rockley House and may result in a need for replacement vehicle parking and storage space through an additional building or hard surfacing. Nonetheless, there is no substantive evidence before me that demonstrates that there is a realistic possibility of replacement parking and storage facilities at the site, particularly given the extent of existing hardstanding at the site. Moreover, given the position of Rockley House within a loose row of development, the potential addition of an outbuilding or hard surface would not cause encroachment into the countryside.
9. The condition would not prevent the appellant (or a future owner) from applying for planning permission for an outbuilding or hard surfacing that would otherwise comprise permitted development. However, based on the evidence before me and with regard to the Framework and the PPG, I am not persuaded that the circumstances at the site are such that a removal of permitted development rights in relation to Rockley House is reasonable or necessary to protect the Green Belt from harm.
10. I therefore conclude that Condition 10 is not reasonable or necessary having regard to the location of the appeal site in the Green Belt, the aims of the Framework in this regard, and the purpose of including land within it.

Conditions

11. 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. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant, albeit that in some cases I have amended the wording in the interests of clarity. In the event

that some have in fact been discharged, that is a matter which can be addressed by the parties.

12. The PPG states that a grant of planning permission under section 73 of the Act should not extend the time period for implementation. Therefore, I shall vary the standard time condition in order to ensure the commencement of development is three years from the date the original permission was granted.
13. In respect of Condition 9, as development under Class AA is not permitted for houses built after 28 October 2018 this has been omitted from the condition.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin before 21 February 2027.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: application form; drawing numbers 7546-PD1-003 – Garage Plans & Elevations, 7546-PD1-010 Rev. C – Garage Conversion Floor Plans and Elevations, 7546-PD1-001 Rev. B – Site Location Plan, 7546-PD1-002 Rev. B – Site Plan, 7546-PD1-011 Rev. C – Garage Conversion Site Plan; Highways Technical Note; and Design, Access and Planning Statement.
- 3) Prior to first occupation of the dwelling hereby permitted, details of all replacement materials and finishes to be used in the external faces of the building (weatherboarding, timber cladding, roofing materials) shall be submitted to and approved in writing by the Local Planning Authority; the development thereafter shall be carried out in accordance with the approved details.
- 4) Prior to first occupation of the dwelling hereby permitted, details of the refuse and recycling storage facilities including plans and elevations shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be made available for use prior to first occupation of dwelling hereby approved and retained for use by occupiers of the dwelling at all times thereafter.
- 5) Prior to first occupation of the dwelling hereby permitted, details of the cycle storage facilities including plans and elevations of a secure and weatherproof enclosure shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be made available for use prior to first occupation of the dwelling hereby approved and retained for use by site users at all times thereafter.
- 6) Notwithstanding the details included in the approved plans, prior to first occupation of the dwelling hereby permitted, details of any external lighting on the building including location, size, appearance and degree of illumination shall be submitted to and approved in writing by the Local Planning Authority; the development thereafter shall be carried out in accordance with the approved details.
- 7) The proposed soft landscaping scheme including the native mix hedgerow along the boundary fencing as shown on approved drawing no. 7456-PD1-010 Rev. C shall be carried out in full within the first planting season. Any trees or plants that die, are damaged, removed or become diseased within five years from implementation shall be replaced with a similar size and species during the next planting season.
- 8) The post and rail fence with native mix hedge shall be installed in accordance with the siting and height of the fence as shown on approved drawing no. 7456-PD1-010 Rev. C; thereafter there shall be no additional form of boundary treatment erected on the site.

- 9) Notwithstanding the provisions of Article 3, Part 1 Classes A, B, C, D, E, F, G and H of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended or any provision equivalent to those classes in any statutory instrument revoking and re-enacting that Order, with or without modification, no enlargement, improvement or other alteration of the dwelling hereby approved shall be carried out, or any additional storeys, dormers, rooflights or other roof alterations shall be constructed, installed or carried out, or the erection of any porch outside any external door, or the provision of any building or enclosure for a purpose incidental to the enjoyment of the dwelling provided, or the provision within the curtilage of a dwelling of a hard surface, or the installation, alteration or replacement of a chimney, flue or soil and vent pipe and there shall be no installation , alteration or replacement of a microwave antenna on the dwelling.
- 10) Notwithstanding the provisions of Article 3, and Part 1 Classes A and G of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order, no further windows, doors, roof lights or other openings other than those shown in the approved plans, shall be formed at any time in the dwelling hereby permitted.
- 11) The parking provision for the dwelling hereby permitted shall be the two parking as shown on drawing no. 7456-PD1-010 Rev. C.
- 12) The applicant shall undertake a watching brief during construction in case any contamination issue is encountered. If during development any contamination is found, the local planning authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the LPA as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

End of Schedule