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## Appeal Decision

Site visit made on 11 August 2020

by **S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 05 October 2020

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**Appeal Ref: APP/X1925/W/20/3251426**

**The White House, Preston Road, Gosmore SG4 7QS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr & Mrs Wright against the decision of North Hertfordshire District Council.
  - The application Ref 19/02875/S73, dated 2 December 2019, was refused by notice dated 3 February 2020.
  - The application sought planning permission for Change of use of ancillary building to separate residential dwelling (as amended by drawing 217313DWG001A received 18/01/2017) without complying with a condition attached to planning permission Ref 17/02861/1, dated 25 January 2018.
  - The condition in dispute is No 3 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A-E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority'*.
  - The reason given for the condition is: *'Given the nature of this development, the Local Planning Authority considers that development which would normally be permitted development should be retained within planning control in the interests of the character and amenities of the area'*.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr and Mrs Wright against North Hertfordshire District Council. This application is the subject of a separate Decision.

### Main Issue

3. The main issue is whether condition 3 is reasonable and necessary having regard to the potential effects of permitted development on the openness of the Green Belt.

### Reasons

4. Paragraph 145 c) of the National Planning Policy Framework (the Framework) establishes that extensions or alterations to a building within the Green Belt are

not inappropriate development provided that they do not result in disproportionate additions over and above the size of the original building.

5. The evidence indicates that the original building was erected in 2012 and was previously an outbuilding ancillary to the residential use of the adjacent property, known as 'The White House'. Its use as a separate dwelling was then granted planning permission in 2018 with permitted development (PD) rights restricted by condition 3 of that consent. Those proposals were not considered by the Council to be inappropriate development in the Green Belt.
6. Paragraph 53 of the Framework advises against the use of planning conditions to restrict PD rights unless there is clear justification to do so. Such conditions should only be imposed where they are necessary, relevant, and amongst other criteria, reasonable in all other respects. The Planning Practice Guidance states that blanket removal of freedoms to carry out small scale domestic alterations are unlikely to meet the tests of reasonableness and necessity, and it advises that the scope of conditions should be precisely defined. The Council applied condition 3 to remove PD rights within classes A to E<sup>1</sup> inclusive, which refer to various extensions, alterations and outbuildings to domestic properties. The condition is applied to the appeal site only, and it does not extend beyond class E to include other types of domestic development, consequently it is not a full 'blanket' restriction of PD rights.
7. The reason for refusal is clear in that the Council seeks control in assessing any future effects on the Green Belt. A detached house on a large plot could otherwise feasibly undertake a significant amount of development without the need for planning permission. The appeal site's location within the Green Belt, does not, in itself, represent an exceptional circumstance to warrant removal of PD rights. I have considered the particular characteristics of the dwelling and its surroundings. The dwelling sits in expansive grounds but is modest in scale. It is not a conventional new build structure but a conversion of an existing outbuilding with a rural barn-like appearance. Consequently I find it would be sensitive to change from further additions. Notwithstanding the presence of boundary vegetation, the site is considerably open to public view from Preston Road, and longer-range views are also possible through to the open fields beyond.
8. In my judgement, removing the said condition and thus lifting the current embargo on PD rights would have the potential to be disproportionate, significantly increasing the volume of the dwelling and its spread (including large outbuildings) within its extensive lawned gardens. In turn, there is potential for such works to harm the openness of the Green Belt, as well as the character and appearance of the area.
9. The appellant draws my attention to various appeal decisions relating to removal of PD rights. While there may have been good reasons to amend PD rights in those cases, here I find that the circumstances are incomparable in relation to site characteristics and the reasons for the conditions. In any event I have determined this appeal on its own merits. The circumstances surrounding the absence or otherwise of PD rights on nearby properties is not a matter before me such that it can influence my decision. Nonetheless, I noted on my site visit that the majority of dwellings in the immediate area are of

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<sup>1</sup> Schedule 2 Part 1 the Town and Country Planning (General Permitted Development) Order 2015 as amended (GPDO).

some age and are unlikely to have been subject to current planning regulations at the time of construction. The potential for an Article 4 Direction is a matter for the Council's consideration.

10. I note that the appellant has no desire to build an upward extension and would be content for such rights under the recent amendments to the GPDO to be limited. However, all types of extensions and alterations that could be carried out under classes A-E inclusive (and including the new class AA) have the potential to be disproportionate and therefore inappropriate here. As such, I find that the condition should remain as originally worded in order to provide the necessary and proper control of development in the Green Belt.
11. Accordingly the removal of the condition to restrict PD rights would not comply with Policy 2 of the North Hertfordshire District Local Plan No.2 with Alterations 1996 which states that except in very special circumstances planning permission will only be granted for extensions and other types of development which are appropriate in the Green Belt, and which would not result in significant visual impact. Whilst Policy 2 of the District Plan is of some age it reflects the general thrust of national Green Belt policy contained within the Framework and therefore I give it significant weight.
12. Policy SP5 of the emerging North Hertfordshire Local Plan 2011-2031 Proposed Submission 2016 is also cited in the reason for refusal. I have not been provided with any information on the current stage of preparation of the emerging Local Plan nor whether there are unresolved objections to the relevant Policies, and as such I give Policy SP5 limited weight.

### **Conclusions**

13. In view of the above I find that the condition is reasonable and necessary in that it allows the Council to assess whether any future additions to the appeal property would be disproportionate and thereby inappropriate development in the Green Belt. I therefore dismiss the appeal.

*S Hunt*  
Inspector