

Appeal Decision

Site visit made on 29 June 2017

by Ian McHugh Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 July 2017

Appeal Ref: APP/R0660/D/17/3171851

Oak Lodge, Marton Lane, Gawsworth, Macclesfield, SK11 9EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R A Bradley against the decision of Cheshire East Council.
 - The application Ref 16/6075M, dated 16 December 2016, was refused by notice dated 17 February 2017.
 - The development proposed is a two storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant submitted a revised plan to the Council (reference 3794/02B) just prior to it making a decision on the planning application. The revised plan proposed a slightly smaller extension in terms of its height and width. The Council did not consider that plan when reaching its decision, but it has been submitted as part of the appeal submission. Given the minor difference between it and the plan determined by the Council, it does not, in my opinion, materially affect the arguments made by either party. Therefore, I have given it full consideration in reaching my decision.

Main Issues

3. These are:
 - Whether the appeal development would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and Development Plan Policy.
 - Its effect on the openness of the Green Belt and on the character and appearance of the area.
 - If found to be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
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Reasons

Inappropriate Development

4. The appeal property is a detached two storey dwelling, which is situated in a rural location in the Green Belt. The dwelling is accessed via a shared private drive from Marton Lane, which is also a public footpath.
5. The property has already been extended since it was originally built. The current proposal is to construct a two storey rear extension with a hipped roof. The Council states that the proposal would result in a cumulative increase in floorspace of 48.5% when compared to the floorspace of the original dwelling. In my opinion, the revised plan (3794/02B) would make little difference to that figure.
6. Saved Policy GC12 of the adopted Macclesfield Local Plan 2004 (LP) allows extensions of up to 30% above the original floorspace, subject to their design and effect on character and appearance being acceptable. The policy also allows for certain exceptions but these exceptions do not apply to this appeal.
7. Paragraph 89 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, unless the development falls within certain listed exceptions. One of these exceptions is for the extension or alteration of a building, provided it does not result in disproportionate additions over and above the size of the original building. The Framework does not provide any guidance on the meaning of 'disproportionate' within the context of paragraph 89 and, therefore, it is a matter of judgement for the decision maker.
8. In my opinion, there is a significant conflict between the proposal and the provisions of the LP and I consider that the extent of extensions (including the appeal proposal), would result in a disproportionate increase over and above the size of the original building. Accordingly, I find that the proposal would be inappropriate development.
9. The Framework advises (paragraph 87) that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I therefore attach substantial weight to the harm arising due to the inappropriate nature of the appeal development (as required by paragraph 88 of the Framework).

Openness, Character and Appearance

10. Paragraph 79 of the Framework advises 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. Although openness is not defined in the Framework, a recent court judgement has determined that it has both a visual and spatial dimension.
11. The appeal site is substantially enclosed from the shared drive and public footpath by a high bank and vegetation. The extension would not be visible from Marton Lane and, although the extension would add to the amount of built development on the site, the effect of the development on the openness of the Green Belt would be slight. Nevertheless this additional effect of the development on the openness of the site, and on the Green Belt, adds to the

harm already caused by reason of its inappropriateness, albeit to a limited extent.

12. In terms of character and appearance, I consider that the proposed extension would complement the existing dwelling in terms of its overall design and materials. In that regard, there would be no harm to the character and appearance of the site or to the wider area.

Other Considerations

13. As stated above, Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
14. The appellant argues that other extensions could be constructed at the property as 'permitted development'. These include both single storey and two storey additions, which the appellant considers would be more harmful to the Green Belt in terms of their massing and projection from the rear of the dwelling. Consequently, the appellant argues that this 'fallback' position is a material consideration, which weighs in his favour.
15. I accept that the appellant's argument is a material consideration, which should be given weight. However, it is necessary to establish that there is a reasonable likelihood of the permitted development being implemented and whether it would be more harmful than the appeal proposal. With regard to a single storey extension, I acknowledge that it could project further from the dwelling into the rear garden than the appeal development. However, this proposal has not been formally endorsed by the Council. Furthermore, I am not persuaded that it is directly comparable, given that the appeal proposal is for first floor bedroom accommodation. Consequently, I am not persuaded that there is a reasonable likelihood of a single storey extension being built.
16. With regard to the suggested two storey development, I acknowledge that it would have a greater bulk and mass than the appeal proposal. However, there is some disagreement between the parties as to whether this alternative proposal would be permitted development. I note that the appellant has drawn my attention to a recent High Court judgement which, in his opinion, supports his case.
17. Notwithstanding this judgement, I consider that the matter should be resolved by the submission to the Council of an application for a Lawful Development Certificate (Proposed Operation). The outcome of such an application could give greater weight to the appellant's case. It is not the purpose of this appeal to establish whether a proposal is permitted development and without that certainty, I am unable to attribute any significant weight to the appellant's argument.
18. Consequently, these other considerations do not, either separately or cumulatively, clearly outweigh the harm by reason of inappropriateness and the additional harm to the openness of the Green Belt. As a result, the very special circumstances that are required to permit the development do not exist. The

appeal development would therefore conflict with the provisions of the Development Plan and with the Framework, as referred to above.

Conclusion

19. In summary, therefore, the appeal proposal would be inappropriate development in the terms set out in the Framework and, in addition, it would lead to a small loss of openness to the Green Belt. These issues are not outweighed by the considerations advanced by the appellant, so as to amount to very special circumstances. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Ian McHugh

INSPECTOR