



Appeal Decisions

Site visit made on 30 September 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2019

Appeal A Ref: APP/P2365/D/19/3233284

Skycastle House, 141 Wigan Road, Lathom L40 6JN

- 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 Chris Castley against the decision of West Lancashire Borough Council.
 - The application Ref 2019/0208/FUL, dated 5 March 2019, was refused by notice dated 29 April 2019.
 - The development proposed is a detached pre-fabricated timber garage to side.
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Appeal B Ref: APP/P2365/D/19/3233287

Skycastle House, 141 Wigan Road, Lathom L40 6JN

- 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 Chris Castley against the decision of West Lancashire Borough Council.
 - The application Ref 2019/0514/FUL, dated 22 May 2019, was refused by notice dated 9 July 2019.
 - The application sought planning permission for a bay window to front surmounted by pediment; flat roof converted to pitched roof with gable; window to side converted to provide Juliet balcony without complying with a condition attached to planning permission Ref 2016/0799/FUL, dated 27 September 2016.
 - The condition in dispute is No 4 which states that: *"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any subsequent Orders or statutory provision re-enacting the provisions of these Orders no garages, extensions, enlargements, garden sheds, out buildings, greenhouses or swimming pools shall be erected or undertaken without the express written permission of the Local Planning Authority."*
 - The reason given for the condition is: *"The character and location of the property are such that the Local Planning Authority wishes to exercise maximum control over future development to protect the openness of the Green Belt and prevent unsightliness and visual intrusion in order to comply with the provisions of Policies GN1(b) and GN3 in the West Lancashire Local Plan 2012- 2027 Development Plan Document and the NPPF."*
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Decisions

1. Appeals A and B are dismissed.

Application for costs

2. An application for costs was made by Mr Chris Castley in respect of Appeal B against West Lancashire Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have, for consistency and completeness, used the appellant's full name as set out on the appeal form in respect of Appeal A.
4. Appeal B relates to a planning application that was refused by the Council. The appellant sought to remove the disputed condition which would enable the occupants of the dwelling to benefit from permitted development rights for the development listed in the condition, which have been removed. The Council did so when they imposed a planning condition on the grant of planning permission to erect a bay window to the front, convert a flat roof to a pitched roof with a gable, and convert a window to the side to a Juliet balcony in 2016¹ ('the 2016 planning permission').

Main Issues

5. The main issues in respect of Appeal A are: (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; (ii) the effect on the openness of the Green Belt; and (iii) if the development is inappropriate, 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 required to justify the proposal.
6. In terms of Appeal B, the main issue is whether the condition is necessary, reasonable and relevant to the development to be permitted, having regard to the openness of the Green Belt and the character and appearance of the area.

Reasons

Appeal A

Whether inappropriate development

7. The appeal property is a semi-detached two storey dwellinghouse located on the eastern side of Wigan Road, which connects Ormskirk to Skelmersdale. The site is located within the Green Belt. Policy GN1 b) of the West Lancashire Local Plan 2012-2027 Development Plan Document (Local Plan) states that development proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies.
8. The Framework states that new buildings in the Green Belt are inappropriate unless they are one of the exceptions listed in paragraph 145. Such exceptions include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework does not specify what a disproportionate addition is. The Council's approach is outlined in Supplementary Planning Document Development in the Green Belt (SPD). SPD Policy GB4 explains that proposals for an extension to an existing building within the Green Belt should satisfy three criteria. Criterion (b) explains that the total volume of the proposal, together with any previous extensions, alterations and non-original outbuildings, should not result in an increase of more than 40% above the volume of the original building.
9. The definition of an 'original building' is set out in Annex 2 of the Framework. In this case, the original building has been extended. Figures provided by the

¹ Council Ref: 2016/0799/FUL

appellant in their Green Belt Assessment (GBA) suggest that the original building would, when the proposal is accounted for, see its volume increased to around 77%. Volume is however only one approach to assessing whether a development would be a disproportionate addition. Based on the GBA, the appeal property has already seen its footprint increased significantly, and the proposal would only add to its size in this regard.

10. The proposal subject of Appeal A would, when added to an earlier extensions, result in a cumulative significant increase to the original building. Thus, the proposal would be a disproportionate addition over and above the size of the original building. Hence, it would be inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The appeal scheme would be contrary to Local Plan Policy GN1 b) and Framework paragraphs 143 and 145. Substantial weight should be given to any harm to the Green Belt (Framework paragraph 144).

Openness

11. The Framework sets out 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.
12. The proposed garage would be clearly visible from Wigan Road from in front of the site. This is due to its siting to the side of the dwelling, along with its scale and massing even though it would be of a fairly low height. Views of the proposed garage on approach to the site from either direction on Wigan Road would temper this visual harm due to the established vegetation which populates the site's western boundary and the front gardens of neighbouring properties. In any event, the proposed garage would introduce built form into an area where there is currently none. Hence, there would be a spatial loss of openness in this relatively flat landscape.
13. I conclude that there would be a loss of openness in the Green Belt. The proposal subject of Appeal A would conflict with Local Plan Policy GN1 b), the SPD and Framework paragraph 133.

Other considerations

14. I agree with the Council's view about the proposed garage's design, appearance, effect on neighbouring occupants living conditions and trees.

Appeal B

15. The Planning Practice Guidance (the Guidance)² advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, 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.
16. The appeal property has been extended significantly already. Prior to the 2016 planning permission, two planning permissions had been granted to form a two-storey side extension and to extend the roof to form a loft conversion and erect a dormer extension to the rear³. In granting the 2016 planning

² Planning Practice Guidance, Paragraph 017 Reference ID: 21a-017-20190723

³ Council Refs: 8/82/402 and 2009/0463/FUL

permission, the Council recognised that this scheme was a small increase to the original building, but that this amounted to a disproportionate addition. I have limited extracts of the Officer's Report for the 2016 planning permission and no approved plans before me. However, from the information I do have, I agree with the appellant that the language used is not altogether clear in terms of the Council's assessment on the openness of the Green Belt. Even so, it seems to me that the Council did find some degree of harm with the scheme that was before them, which Framework paragraph 144 requires decision makers to attach substantial weight to. It is not my role to re-consider a scheme which has already been granted planning permission, but the Council say that the basis for their decision was that the other considerations of the scheme clearly outweighed the harms to the Green Belt, and thus very special circumstances existed.

17. From the evidence available, the original building has been incrementally extended over time. The appellant does not dispute the Council's view that this is well beyond the SPD's threshold. The SPD highlights the potential for the removal of permitted development rights for sites in the Green Belt. The disputed condition was only imposed at a stage whereby further development was proposed by the appellant. It was not therefore 'retrofitting' the condition to earlier schemes. As such, the disputed condition was justified by the nature or impact of the development permitted.
18. The Framework, in relation to the Green Belt, sets out restrictions on the types of building, including the extension and alteration to buildings, to determine whether the works would not be inappropriate. I recognise the advice found in the Guidance, but I consider that the disputed condition satisfies the tests of being reasonable and necessary as further development could potentially add to the existing additions and cause harm to the openness of the Green Belt. The disputed condition does still allow the appellant or any future occupant to apply for planning permission, which the Council would need to consider on its own merits.
19. The other reason for the Council imposing the condition relates to the character and appearance of the area. However, given that the Council found that the approved scheme would improve the appearance of the existing extension, the disputed condition is not necessary, reasonable or relevant to the development to be permitted in this regard. However, this does not change my opinion about the condition insofar as the openness of the Green Belt. I also consider that the disputed condition is precise, enforceable and relevant to planning, having regard to the tests set out in Framework paragraph 55.
20. I conclude, in respect of Appeal B, that the disputed condition is necessary, reasonable and relevant to the development to be permitted, having regard to the openness of the Green Belt. As such, the removal of the condition would conflict with Local Plan Policy GN1 b) and Framework paragraphs 133, 143 and 145, which seek to keep land permanently open in the Green Belt and not approve inappropriate development except in very special circumstances.

Conclusions

21. The scheme subject of Appeal A would be inappropriate development in the Green Belt and result in a loss of openness. These are both, by definition harmful and I attach them substantial weight as required by Framework paragraph 144. Hence, there is a clear conflict with the environmental role of sustainable development. I have considered matters put before me in favour of

the scheme subject of Appeal A, however I conclude that these other considerations taken together do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. For these reasons, I conclude that Appeal A should be dismissed.

22. For the reasons set out above, I conclude that Appeal B should be dismissed.

Andrew McGlone

INSPECTOR