



Appeal Decisions

Site visit made on 3 July 2020

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2020

Appeal A Ref: APP/A0665/D/20/3244234

Comberbach Hall Cottage, The Avenue, Comberbach, Northwich CW9 6HT

- 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 & Mrs Alan and Heather Bailey against the decision of Cheshire West & Chester Council.
 - The application Ref 19/03061/FUL, dated 6 August 2019, was refused by notice dated 14 October 2019.
 - The development proposed is 'erection of a greenhouse/garden room - retrospective (resubmission of 18/02203/FUL)'.
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Appeal B Ref: APP/A0665/D/20/3244235

Comberbach Hall Cottage, The Avenue, Comberbach, Northwich CW9 6HT

- 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 Alan Bailey against the decision of Cheshire West & Chester Council.
 - The application Ref 19/03057/FUL, dated 6 August 2019, was refused by notice dated 14 October 2019.
 - The development proposed is 'erection of Garden Shed - retrospective, re-submission of 19/02204/FUL'.
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Decisions:

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. The description of development given by the application forms for Appeal A and Appeal B have been updated by subsequent documents. I have adopted the description of development provided by the appeal forms in each case as they are accurate in terms of the proposals before me.
4. Appeals A and B are necessarily considered on their individual merits. The proposals are different insofar as they relate to a greenhouse/garden room and a separate garden shed, both of which were in-situ within the curtilage of Comberbach Hall Cottage at the time of my visit. However, as there are common and overlapping main issues, I have linked the appeal decisions.

Main Issues

5. The main issues for both Appeals A and B are:
- Whether the proposal is inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework), including the effect on openness and the purposes of including land within it;
 - Whether the proposal would preserve or enhance the character, appearance and significance of the Grade II listed building and its setting, and;
 - If the proposal is 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.

Reasons

Whether the proposals would be inappropriate development in the Green Belt

6. The appeal site consists of Comberbach Hall Cottage (also known as Manor Cottage), a Grade II listed building with associated residential curtilage. It is located on a corner plot of The Avenue at the junction of Warrington Road and a private access road which runs past the site and serves buildings in a backland location. The site lies on the fringe of a settlement within the Green Belt, with The Avenue forming an evident boundary between the built envelope of Comberbach and more open countryside to the east.
7. Policy STRAT 9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (LP Part One), adopted January 2015, states that "*in settlements and areas of the countryside that are within the Green Belt, additional restrictions will apply to development in line with the National Planning Policy Framework*". Policy DM21 of the Cheshire West & Chester Council Local Plan Part Two: Land Allocations and Detailed Policies (LP Part Two), adopted July 2019, has a similar approach with cross referencing to Policy STRAT9.
8. Paragraph 145 of the Framework indicates that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless it falls within certain listed exceptions. The listed exceptions include part (c), where the extension or alteration of a building does not result in disproportionate additions over and above the size of the original building. In that respect, the greenhouse/garden room subject of Appeal A and the garden shed subject of Appeal B are not attached to the original dwelling. However, as a matter of fact and degree, I observed that they are sufficiently close to the dwelling and ancillary to its occupation, so as to be treated as normal domestic adjuncts. Consequently, it is reasonable that the proposals in Appeal A and Appeal B are considered to be an extension to the original building for the purposes of assessment under paragraph 145(c) and, therefore, that they do not fall within the other listed exceptions in paragraph 145 of the Framework.
9. The Framework does not provide a specific definition of what would constitute a disproportionate addition over and above the size of the original building and, therefore, it is a matter of judgement for the decision maker. In that context, the supporting text to Policy DM21 of the LP Part Two at paragraph 12.21 indicates that as a general guide – subordinate and small-scale extensions

should not increase the size of the original dwelling by more than 30 per cent. Paragraph 12.22 then confirms that the increase in size of the original or existing dwelling will generally be determined by assessing the net increase in floorspace (measured externally).

10. Paragraph 12.23 of the LP Part Two provides additional clarity that the 'original dwelling' is the dwelling as it existed on 1 July 1948 or, if constructed after this date, as it was originally built - which is broadly consistent with the definition of an original building given in Annex 2: Glossary of the Framework. Paragraph 12.23 also confirms that all outbuildings or structures within the curtilage of a dwellinghouse which are built after the construction of the original dwelling, will be treated as being an extension to the original building.
11. The appellants evidence refers to a Supplementary Planning Guidance (SPG) from the previous District of Ellesmere Port and Neston that has an alternative definition of disproportionate being an increase of over 30% in floorspace from the building existing in April 1990. However, the SPG pre-dated the adoption of the Local Plan Part 2 which is more up-to-date and consistent with the Framework. I, therefore, afford little weight to the SPG.
12. Having regard to all of the above, I consider that the threshold of no more than 30% larger in size than the original building as set out in the LP Part Two is a reasonable starting point for assessments of both Appeal A and Appeal B relative to paragraph 145(c) of the Framework. In that context, based upon the evidence, the gross floor area of the original building that existed on the site prior to 1948 was around 138 sq.m, with further extensions/outbuildings constructed between 1975 and 1987 which increased it to approximately 217 sq.m (around a 57% net increase in floorspace).

Appeal A

13. The greenhouse/garden room is a glazed and pitched roof building attached to a wall with a raised height relative to the boundary fence with neighbouring commercial premises. The building has a relatively modest floorspace of around 7.5 sq.m which represents an increase of around 6% to the overall floorspace of the original building that existed prior to 1948. However, when taken together with extensions after that date, the proposal contributes to a significant exceedance of the 30% increase threshold in the LP Part Two. It follows that the greenhouse/garden room, when added to previous extensions, is a disproportionate addition over and above the size of the original building for the purposes of paragraph 145 of the Framework. Consequently, the Appeal A proposal is inappropriate development in Green Belt.
14. In reaching the above findings, I have taken into account that the greenhouse/garden room is sited within a raised garden area where it is viewed in the context of other buildings and structures, including those within the neighbouring Avenue Garage, and a shared concrete panel boundary fence. Consequently, the proposal does not result in a perception of encroachment into open countryside. Nonetheless, despite the relatively lightweight appearance of the glazed structure, its footprint, scale and massing has resulted in the addition of built form in a location that was previously open.
15. At the time of my visit, views of the building from public vantage points were partly screened by boundary hedging alongside The Avenue. As a result, the visibility of the building was restricted to glimpses when passing pedestrian

accesses and above lower and sparser sections of landscaping. Nonetheless, the loss of openness of the Green Belt arising from the presence of the building was visible from those public vantage points.

16. The proposal includes some adaptation to the building to reduce its roof height, to re-fenestrate with glazing bars, and the addition of a trellis screen with climbing plants to further reduce its visibility. However, the addition of such a structure of itself would make the site less open and therefore, would not mitigate the harm identified. It follows that the development in Appeal A would not preserve the openness of the Green Belt. It, therefore, also would not fall within the certain other forms of development that would not be inappropriate in Green Belt as listed in paragraph 146 of the Framework.
17. The location of the proposal in Appeal A within an established residential curtilage would not result in harm to the other purposes of Green Belt listed at paragraph 134 of the Framework. However, the absence of harm in those respects is a neutral factor.
18. I conclude that the proposal in Appeal A is inappropriate development in the Green Belt, which is harmful by definition, when having regard to Policy STRAT 9 of the LP Part One, Policy DM21 of the LP Part Two and the Framework, with associated harm upon the openness of the Green Belt.

Appeal B

19. The garden shed is a building comprising of brick walls and a curved profile roof. It is a smaller structure than the greenhouse/garden room, albeit sited closer to the boundary with The Avenue. The building of itself consists of around 5 sq.m of floorspace which is a modest increase of approaching 4% to the overall floorspace of the original building. However, when taken together with the extensions constructed after 1948, the cumulative additions reflect a significant exceedance of the 30% threshold set out in the LP Part Two. It follows that the garden shed, when added to previous extensions, is a disproportionate addition over and above the size of the original building for the purposes of paragraph 145 of the Framework. Consequently, the Appeal B proposal is inappropriate development in Green Belt.
20. In reaching the above findings, I have taken into account that the garden shed is sited within the existing raised garden area where it is viewed in the context of other buildings and structures, including those within the neighbouring Avenue Garage and a shared boundary fence. Consequently, the proposal does not result in a perception of encroachment into open countryside. Nonetheless, despite the relatively modest proportions of the garden shed building it has resulted in the addition of built form in a location that was previously open.
21. The garden shed building is located closer to the shared boundary with The Avenue than the greenhouse/garden room. Some views of the building from public vantage points are partly screened by boundary hedging alongside The Avenue. However, it is a more prominent feature when visible above lower and sparser sections of landscaping. A loss of openness of the Green Belt is observed from those public vantage points.
22. Similarly to Appeal A, the proposal includes the addition of a trellis screen with climbing plants in seeking to reduce the visibility of the building. However, the addition of such a structure of itself would make the site less open and would

not mitigate the harm identified. It follows that the development in Appeal B would not preserve the openness of the Green Belt. It, therefore, also would not fall within the certain other forms of development that would not be inappropriate in Green Belt as listed in paragraph 146 of the Framework.

23. The location of the proposal within an established residential curtilage would result in no harm to the other purposes of Green Belt listed at paragraph 134 of the Framework. However, the absence of harm is a neutral factor.
24. I conclude that the proposal in Appeal B is inappropriate development in the Green Belt, which is harmful by definition, when having regard to Policy STRAT 9 of the LP Part One, Policy DM21 of the LP Part Two and the Framework, with associated harm upon the openness of the Green Belt.

Character and appearance - Grade II listed building and its setting

25. Comberbach Hall Cottage is a late 17th century building with a gable fronted design and distinctive timber framing on the front and south side brick facades, a later side outrigging element, and dormers on each main roof slope. The building has a distinctive dual gable side profile on the northern side and a number of later additions, including a side porch, single storey rear extension and a large detached outbuilding at the rear. The Grade II listed building is set behind gardens with boundary hedging adjoining The Avenue and an access road that runs along the western boundary up to the detached outbuilding at the rear. The existing verdant gardens provide a sense of space to assist the appreciation of and draw attention to the historic style, detail, layout, form and scale of the listed building and, therefore, make a positive contribution to its setting and significance.
26. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving listed buildings and their settings. Paragraph 193 of the Framework indicates that when considering the impact on the significance of designated heritage assets, great weight should be given to the asset's conservation (the more important the asset, the greater the weight should be), irrespective of whether any harm amounts to substantial harm, total loss or less than substantial harm to its significance. The Framework is also clear that significance can be harmed or lost through alteration of a heritage asset or development within their setting.

Appeal A

27. The greenhouse/garden room is a glazed building with an appearance that is akin to a modern conservatory albeit attached to a wall adjoining the existing boundary fence. The proposal includes changes to the fenestration of the greenhouse/garden room to improve its relationship with the listed building. The alterations also include reducing the height of its wall to lower its profile, although it would continue to project above the surrounding concrete panel fence with the neighbouring property
28. The building is sited slightly forward of the front building line of the listed building and, therefore, is a prominent addition in the raised garden area which provides a sense of space as part of the setting of the designated heritage asset. Its prominent siting and juxtaposition to the listed building, when taken together with its modern materials such as the uPVC conservatory style exterior and lighter colour brick walls, departs from the architectural style,

- form, detailing and materials of the original building and detached rear outbuilding, drawing attention to its incompatible appearance.
29. The building although partially screened by boundary hedging alongside The Avenue is glimpsed when passing the pedestrian entrance and above lower and sparser sections of landscaping due to its raised position relative to the road. From those perspectives and from within the site itself, the building is viewed as a prominent, discordant and insubordinate feature within the setting of the listed building despite a degree of physical separation. In addition, when taken together with the garden shed building subject of Appeal B it forms part of a current accumulation of incompatible structures. Furthermore, it erodes part of the northern garden area of the site with a resultant loss of the characteristic spaciousness which surrounds the listed building.
30. Even if the other appeal were to be dismissed and the garden shed were to be removed, it would not overcome the harm arising from the presence and appearance of the proposal subject of Appeal A. As previously mentioned, the proposal includes the addition of a trellis screen with associated planting which would provide a degree of visual containment by largely screening the building from views along The Avenue and within the site itself. However, the relationship of the building with the trellis screen and associated landscaping would appear contrived. In addition, the subdivision of the garden would only serve to further undermine the sense of space within the garden on the northern side of the listed building with a detrimental impact on its setting.
31. In reaching the above findings, I have taken into account that the surroundings of the site such as the adjacent commercial garage and a large car park serving a nearby public house result in a mixed character. However, such matters have less influence on the setting of the listed building than the proposal before me, due to the visual containment of the site provided by existing boundary treatments and supplementary trees.
32. Having regard to all of the above, the proposal would harm the setting of the listed building when viewed within the site. However, given the degree of visual containment of the greenhouse/garden room and trellis screen from public vantage points and the physical separation from the listed building, the harm would be less than substantial to the significance of the Grade II listed building when taken as a whole. Paragraph 196 of the Framework requires that less than substantial harm be weighed against any public benefits.
33. The public benefits suggested by the appellants are that the building with level access would enhance their enjoyment of the gardens in their own personal circumstances. Although I understand and sympathise with the appellants in those respects, I cannot find that the addition of the greenhouse/garden room is necessary for the occupation of the listed building or to secure the future conservation of the heritage asset. The personal circumstances and associated benefits of the proposal are not sufficient to outweigh the great weight to be given to the less than substantial harm that I have identified.
34. I conclude that the development subject of Appeal A would have a harmful effect upon and, therefore, fail to preserve or enhance the character, appearance and significance of the Grade II listed building and its setting. The proposal, therefore, conflicts with Policies ENV5 and ENV6 of the LP Part One and Policy DM21 of the LP Part Two. When considered together these policies seek to ensure new development is of a high-quality design which respects

local character, whilst respecting and responding positively to designated heritage assets and their settings, avoiding loss or harm to their significance. The policies are consistent with the Framework.

Appeal B

35. The garden shed is located towards the northern side boundary of the site in a position set forward of both the front building line of the listed building and the greenhouse/garden room subject of Appeal A. It, therefore, is closer to The Avenue and at the time of my visit, could be viewed prominently in gaps in boundary hedging despite the presence of trees nearby. The proposal includes altering the brickwork to a darker colour, re-pointing, changing the windows to more closely match those of the listed building and provision of a curved profiled cement composite roof.
36. The building currently has a utilitarian appearance arising from its curved gable facade which draws attention to it as a prominent and discordant feature within the setting of the listed building, despite its physical separation from the dwelling. The proposed alterations would improve its relationship with the materials of the listed building and would ensure a degree of subservience when taking account of its modest scale. Nonetheless, the alterations would not overcome its incompatible appearance and profile. Furthermore, the presence of the building also erodes part of the northern garden area of the site with a resultant loss of characteristic spaciousness which surrounds the listed building. In doing so it forms part of a current accumulation of varied structures, with the backdrop of the greenhouse/garden room building subject of Appeal A and the large detached outbuilding beyond.
37. Even if the other appeal were to be dismissed and the greenhouse/garden room were to be removed, it would not overcome the harm arising from the presence and appearance of the proposal subject of Appeal B. As previously mentioned, the proposal includes the addition of a trellis screen with associated planting which would provide a degree of visual containment by largely screening the garden shed building from public vantage points along The Avenue and within the site itself. However, the relationship of the garden shed with the trellis screen and associated landscaping would appear contrived. In addition, the subdivision of the garden would only serve to further undermine the sense of spaciousness with a detrimental impact on the setting of the listed building.
38. Having regard to all of the above and the surrounding context (as referred to in the assessment of Appeal A), the proposal in Appeal B would harm the setting of the listed building. However, given the degree of visual containment of the garden shed from public vantage points and the physical separation from the listed building, the harm would be less than substantial to the significance of the Grade II listed building when taken as a whole. Paragraph 196 of the Framework requires that less than substantial harm be weighed against any public benefits.
39. The public benefits suggested by the appellant are that the building would provide a convenient storage space for gardening equipment and potting, which would enhance the enjoyment of the garden. Although I understand the aspiration of the appellant in those respects, I cannot find that the addition of the garden shed building to store gardening equipment is necessary for the occupation of the listed building as alternative storage spaces would likely be

available in other established buildings within the site. Furthermore, there is no evidence that the development would be necessary to secure the future conservation of the heritage asset. The benefits of the proposal and the personal circumstances of the appellant are not sufficient to outweigh the great weight to be given to the less than substantial harm that I have identified.

40. I conclude that the development subject of Appeal B would have a harmful effect upon and, therefore, fail to preserve or enhance the character, appearance and significance of the Grade II listed building and its setting. The proposal, therefore, conflicts with Policies ENV5 and ENV6 of the LP Part One, Policy DM21 of the LP Part Two and the Framework.

Other considerations

41. The other considerations drawn to my attention by the appellants are the same for both Appeal A and Appeal B and I address them together. The benefits of both proposals for the enjoyment and maintenance of the gardens of the appeal site in the appellants own personal circumstances have been assessed in reaching the individual conclusions on the effect on the setting of the listed building. The benefits are afforded moderate weight in each case, given that they improve the enjoyment of the garden but are not essential for occupation of the listed building or its conservation.
42. I have taken into account that the appellants have indicated that the proposals subject of Appeal A and Appeal B were not a wilful breach of planning control in the Green Belt and rather a mistaken belief that each addition would be permitted development. Nonetheless, as the proposals in both Appeal A and Appeal B are within the curtilage of a Grade II listed building there is no fallback position in that respect. I also afford little weight to the suggestion that the buildings may have otherwise been permitted development in other locations in the Green Belt, as such matters do not justify the totality of harm that I have identified for both the Appeal A and B proposals.
43. The access and parking arrangements of the property would be unaffected by the proposals in Appeal A and Appeal B. In addition, the separation distance to neighbouring properties is sufficient to ensure no adverse impact upon the living conditions and living environment of their respective occupiers. However, the absence of concern in those respects is a neutral factor that does not weigh in favour of the Appeal A proposal or the Appeal B proposal.

Planning Balances

Appeal A

44. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt. I have also found associated harm to the openness of the Green Belt and a failure to preserve or enhance the character, appearance and significance of the Grade II listed building and its setting. The Framework asserts that substantial weight should be given to any harm to the Green Belt and very special circumstances 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. The less than substantial harm to the significance of the listed building and its setting carries great weight.
45. Having regard to my previous reasoning, I find that the other considerations in Appeal A, when taken together, do not clearly outweigh the substantial weight

to be given to the totality of harm to the Green Belt, and the other harm arising from the proposed development. Consequently, the very special circumstances necessary to justify the development do not exist.

46. It follows that the proposal conflicts with the relevant policies of the development plan as previously identified and the Framework when taken as a whole, which are significant and overriding factors. The material considerations in this case do not indicate that the Appeal A proposal should be determined otherwise than in accordance with the development plan.

Appeal B

47. In terms of the Appeal B proposal and as previously set out, inappropriate development is, by definition, harmful to the Green Belt. I have found associated harm to the openness of the Green Belt and a failure to preserve or enhance the character, appearance and significance of the Grade II listed building and its setting.
48. Having regard to my previous reasoning, I find that the other considerations in Appeal B, when taken together, do not clearly outweigh the substantial weight to be given to the totality of harm to the Green Belt, and the other harm arising from the proposed development. Consequently, the very special circumstances necessary to justify the development do not exist.
49. It follows that the proposal conflicts with the relevant policies of the development plan as previously identified and the Framework when taken as a whole, which are significant and overriding factors. The material considerations in this case do not indicate that the Appeal B proposal should be determined otherwise than in accordance with the development plan.

Conclusions

Appeal A

50. For the reasons given above and having regard to all other matters raised, I conclude that Appeal A should be dismissed.

Appeal B

51. For the reasons given above and having regard to all other matters raised, I conclude that Appeal B should be dismissed.

Gareth Wildgoose

INSPECTOR