
Appeal Decisions

Site visit made on 31 March 2021

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2021

Appeal A: APP/C4235/D/20/3261829

123 Werneth Road, Woodley, Stockport SK6 1HR

- 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 Dr Ahmed against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/076745, dated 13 May 2020, was refused by notice dated 4 August 2020.
 - The development proposed is described as: "erection of a rear extension and demolition of existing outbuildings (amendment to application DC/075572 to include timber decking to rear of extension)".
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Appeal B: APP/C4235/D/20/3261830

123 Werneth Road, Woodley, Stockport SK6 1HR

- 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 Dr Ahmed against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/076751, dated 13 May 2020, was refused by notice dated 4 August 2020.
 - The development proposed is erection of a greenhouse.
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Decision

1. **Appeal A** and **Appeal B** are both dismissed.

Preliminary Matter

2. At the time of my visit, works had taken place in the area where the timber decking is proposed in Appeal A. Notwithstanding any works which have been carried out at the site to date, my decision on each appeal is based on the proposed development as shown on the submitted drawings for that appeal.

Main Issues

3. The main issues in both Appeal A and Appeal B are:
 - 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; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.
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Reasons

Background

4. The appeal relates to a detached house in the Green Belt. The dwelling has had numerous previous extensions including two large conservatories, a rear dormer and a two storey rear extension. A further extension and an attached, roofed area of decking project at first floor level from the rear of the two storey rear extension into the property's rear garden, which is at a higher level than the ground floor of the building. The property also has a large, detached garage to one side and a number of outbuildings to the rear.
5. Permission was granted in April 2020 for a further rear extension¹ which would project from the upper floor of the two storey rear extension, alongside the existing rear projection and decking described above. In granting that permission, the Council took into account a proposal to remove 3 existing outbuildings, thus reducing the volume of buildings elsewhere in the site and offsetting the volume created by that further extension. The permission was granted subject to a condition requiring those outbuildings to be removed within a specified period. At the time of my visit, the extension thus permitted did not appear to have been carried out and the outbuildings were still present.
6. Appeal A seeks permission to add an area of timber decking to the rear of the extension permitted in April 2020. The decking would be elevated on stone piers above the ground level below, creating a void beneath it.
7. Appeal B seeks permission for a detached greenhouse in the south eastern part of the site.

Whether the proposals would be inappropriate development

8. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate development in the Green Belt, with exceptions which 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 (bullet point c);
 - limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development (bullet point g).
9. Policy GBA1.2 of the Stockport Unitary Development Plan Review (UDPR) states that within the Green Belt there is a presumption against the construction of new buildings unless it is for one of a number of specified purposes. Although Policy GBA1.2 was adopted before the publication of the Framework, its aims are consistent with the Framework which states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I therefore afford Policy GBA1.2 substantial weight insofar as it relates to those aims.
10. The exceptions listed in Policy GBA1.2 include the limited extension or alteration of existing dwellings in accordance with Policy GBA1.5. That policy states that proposals relating to existing residential uses in the Green Belt may

¹ Application reference: DC/075572

be permitted in certain cases, including alterations and extensions where the scale, character and appearance of the property are not significantly changed.

11. Although broadly consistent with the exception in paragraph 145 c) of the Framework, Policies GBA1.2 and GBA1.5 are more narrowly defined, referring only to dwellings. They also define extensions with reference to the 'existing' rather than the 'original' building, an important distinction and inconsistency with the detailed wording of the Framework. Furthermore, the lists of exceptions in Policies GBA1.2 and GBA1.5 do not include the infilling or redevelopment of previously developed land. I therefore afford the exceptions in those UDPR policies limited weight and have considered the appeal against the exceptions in the Framework.

Appeal A

12. The Council's Extensions and Alterations to Dwellings Supplementary Planning Document advises that extensions which increase the original volume of the original dwelling by more than about one third are unlikely to be acceptable, and that in calculating that volume the cumulative effect of any previous extensions will be taken into account. Whilst not encompassed within the development plan policies, that figure is nonetheless a useful starting point for considering whether an extension would be disproportionate, having regard to the criteria in paragraph 145 c) of the Framework.
13. Based on the site's planning history and my own observations, it is evident that the existing extensions to the appeal building already far exceed a third of the original building's volume.
14. The proposed decking would be surrounded by a balustrade and constructed on stone piers, creating a void below it. It would thus have a volume, enclosing beneath it and within its balustrade what would otherwise be an open area of land, absent of built form. The additional volume created would be relatively limited in itself. However, when taken cumulatively with the existing substantial extensions to the building, that further incremental extension would constitute a disproportionate addition over and above the size of the original building. As such, it would not meet the exception criteria in paragraph 145 c) of the Framework.
15. It has been suggested that the site is not within a built-up area and is thus previously developed land as defined in the Framework, and that I should consider the proposed development against paragraph 145 g) of the Framework on that basis. I have had regard to the findings in the *Dartford* judgment² in that respect. However, even if I were to agree that the site was previously developed land, the exception criteria in paragraph 145 g) require that any infilling or redevelopment of such land would not have a greater impact on the openness of the Green Belt than the existing development.
16. In considering the effects on openness, I have taken into account the spatial and visual impacts of the proposal and the findings in the court judgments drawn to my attention³ and in the *Samuel Smith* Supreme Court judgment⁴.

² Dartford BC v SSCLG [2017] EWCA Civ 141

³ Including Euro Garages Ltd v SSCLG & Anor [2018] EWHC 1753 (Admin); and Europa Oil and Gas Limited v SSCLG [2013] EWHC 2643 (Admin).

⁴ R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

17. Although the site is in residential use, it has a large garden. The areas of that garden which remain undeveloped and free from built form contribute to the openness of the Green Belt. The decking would have a volume and would cover and enclose one such area of the garden, which otherwise would be open and free from built form. The decking would thus have a greater impact on the spatial openness of the Green Belt than the existing development.
18. Because of existing structures on the site and the trees and hedges within the site and around its boundaries, views of the decking from surrounding public vantage points and neighbouring properties would be limited. Nonetheless, the additional volume would be evident to occupants of the appeal dwelling and visitors to the site. The existing trees and hedges within the site and around its boundaries could also be reduced in height or removed in the future, further opening up views. The decking, a domestic structure, would therefore also have a visual as well as a spatial effect on the openness of the Green Belt.
19. Reference has been made to the intended removal of several existing outbuildings from elsewhere within the site. However, the removal of those structures formed part of the justification for the rear extension permitted in April 2020. The cumulative volume of that permitted extension, together with that created by the decking now proposed, would exceed the combined volume of those 3 outbuildings. Therefore, even if those outbuildings were removed, the development now proposed would have a greater impact on openness than the existing development on the site as a whole. The decking would thus not meet the exception criteria in paragraph 145 g) of the Framework.
20. The development proposed in Appeal A would not meet any of the exceptions in paragraphs 145 or 146 of the Framework. It would therefore be inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Although the development would be within a residential garden, it would result in the further extension of residential built form and volume into an area of open land in the countryside which would otherwise be free from development. It would thus fail to safeguard the countryside from encroachment, in conflict with one of the purposes of including land within the Green Belt as set out in paragraph 134 of the Framework.
21. Furthermore, for the reasons given, the decking would cause harm to the openness of the Green Belt. Having regard to its limited visibility, the degree of harm to openness would be limited. Nonetheless, the Framework requires that substantial weight is given to that harm to the Green Belt.

Appeal B

22. As a detached outbuilding that would be some distance from the dwelling on the appeal site, the proposed greenhouse would not appear as an extension to the dwelling. Therefore, the exception in paragraph 145 c) of the Framework does not apply. Even if it did, the volume of the greenhouse would represent a disproportionate addition to that original building when taken cumulatively with the existing extensions described above and would not meet the exception criteria in that paragraph.
23. The greenhouse would occupy an area where a structure appears to have stood previously. However, as that former structure is no longer present I have not taken it into account in considering whether the greenhouse would have a

greater impact on openness than the existing situation for the purposes of paragraph 145 g) of the Framework.

24. Although single storey, the greenhouse would have a large footprint and a relatively large volume and massing. It would occupy an area of land in the garden which is currently absent of buildings or structures. Consequently, it would have a greater impact on the spatial openness of the Green Belt than the existing development.
25. The greenhouse's scale, volume and massing would be evident despite its partly-glazed appearance. Because of the site's existing boundary planting, views of the greenhouse from public vantage points would be limited. However, it would be visible to the occupants of, and visitors to, the appeal property. Given its proximity to the site's southern boundary, it would also be visible from the upper floors of neighbouring houses to the south through gaps in the boundary planting, even if the outbuildings proposed for removal as part of the April 2020 permission were to remain. Furthermore, the site's boundary planting could be removed or reduced in height in the future, further opening up views. The greenhouse would therefore also have a greater impact on the visual openness of the Green Belt than the existing development and would not meet the exception criteria in Framework paragraph 145 g).
26. Therefore, even if I were to consider the appeal site to be previously developed land, as has been suggested, the greenhouse would not fall within any of the exceptions in paragraphs 145 or 146 of the Framework. Consequently, it would constitute inappropriate development which would, by definition, be harmful to the Green Belt and should not be approved except in very special circumstances. Despite being within a residential garden, the greenhouse would result in built form where none exists presently. It would thus result in the encroachment of domestic built development into the countryside, in conflict with one of the purposes of including land within the Green Belt.
27. The greenhouse would also cause harm to the openness of the Green Belt. Having regard to its relatively limited visibility, that harm would be moderate. Nonetheless, the Framework requires that substantial weight is given to that harm to the Green Belt.

Other considerations

Appeal A

28. As set out above, the volume of the 3 outbuildings proposed for removal would be less than the cumulative volume of the proposed decking and the extension approved in April 2020. There would therefore be a net increase in built structures and a net reduction in openness across the site as a whole. In that context, I afford little weight to the fact that the extension and decking would be closer to the house than those outbuildings.
29. The permission granted in April 2020 for an extension to the rear of the house remains extant as a fallback position. However, even if that permission were implemented, the decking now proposed would represent a further increase in built form and volume beyond that previously-permitted extension. I therefore afford little weight to that fallback position.
30. The Council has not identified any concern with regard to the effects of the decking on character and appearance, the living conditions of nearby residents

or highway safety. From all that I have seen and read I have no reason to reach a different conclusion. However, the absence of harm in those respects is neutral rather than a benefit weighing in favour of the proposal.

Appeal B

31. Similarly, on the basis of the evidence before me and my own observations, I have no reason to conclude that the greenhouse would harm character or appearance, the living conditions of nearby residents or highway safety. Nonetheless, the absence of harm in those regards is neutral rather than a benefit which weighs in favour of the proposal.

Green Belt Balance and Conclusion – Appeal A

32. The Framework requires that substantial weight is given to any harm to the Green Belt when considering any proposal for development within it. It states that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
33. I have found harm to the Green Belt by reason of the proposed development's inappropriateness and harm to openness. Balanced against that are the other considerations discussed above. However, for the reasons given those do not clearly outweigh the harm to the Green Belt. Therefore, the very special circumstances necessary to justify the development do not exist and the development would conflict with the Green Belt protection aims of Policies GBA1.2 and GBA1.5 of the UDPR and with the Framework.
34. In reaching this conclusion, I have had regard to the findings in the *Tesco* judgment⁵ referred to, including with regard to the interpretation and application of development plan policies. For the reasons given, I find the conflict with UDPR Policies GBA1.2 and GBA1.5 to be overriding in this case.
35. I have found harm to the Green Belt for the reasons given. Accordingly, having regard to paragraph 11 d) i. and footnote 6 of the Framework, the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development. Therefore, the presumption in favour of sustainable development in paragraph 11 of the Framework is not engaged in this case.
36. The harm I have identified would not be outweighed by any benefits of the scheme. The proposed development would therefore conflict with the development plan taken as a whole. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that **Appeal A** should be dismissed.

Green Belt Balance and Conclusion – Appeal B

37. I have found harm to the Green Belt by reason of the proposed development's inappropriateness and harm to openness. Balanced against that are the other considerations discussed above. However, for the reasons given those do not clearly outweigh the harm to the Green Belt. Therefore, the very special circumstances necessary to justify the development do not exist. Consequently, the development would conflict with the Green Belt protection aims of

⁵ *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13

Policies GBA1.2 and GBA1.5 of the UDPR and with the Framework. I find the conflict with those development plan policies to be overriding.

38. As I have found harm to the Green Belt, the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development. Therefore, the presumption in favour of sustainable development in paragraph 11 of the Framework is not engaged.
39. The harm I have identified would not be outweighed by any benefits of the scheme. The proposed development would therefore conflict with the development plan taken as a whole. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that **Appeal B** should be dismissed.

Jillian Rann
INSPECTOR