



Appeal Decision

Site Visit made on 12 April 2021 by Hilary Senior BA (Hons) MCD MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Appeal Ref: APP/R0660/D/21/3267014

Summerhill, 10 Summerhill Road, Prestbury, SK10 4AH

- 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 Peter Ogden against the decision of Cheshire East Council.
 - The application Ref 20/5041M, dated 11 November 2020, was refused by notice dated 7 January 2021.
 - The application sought planning permission for Variation of condition 2 to planning application 20/2839M - Planning Application for demolition of existing single storey garage and construction of new single and double storey extensions to rear and side of existing house, with remodelling of the internal drive and the construction of a new free-standing double garage set back to the front garden without complying with a condition attached to planning permission Ref 20/2839M, dated 14 October 2020.
 - The condition in dispute is No 2 which states that: The development hereby approved shall be retained in total accordance with the approved drawings.
270-05 A Block Plan / Area, 270-06 H Proposed Floor Plans, 270-08 D Proposed Elevations 2 Of 2, 270-11 C Hard Landscape. Received by the Local Planning Authority on 16 September 2020
270-1 Existing Floor Plans, 270-2 Existing Elevations 1 of 2, 270-3 Existing Elevations 2 of 2, 270-4 Existing Roof Plan, 270-7 C Proposed Elevations 1 of 2, 270-12 Proposed Site Plan, 270-13 Proposed Roof Plan, 270-14 Location Plan, 270-14 Proposed Garage, SSS-9021 B Site survey. Received by the Local Planning Authority on 7 July 2020.
 - The reason given for the condition is: For the avoidance of doubt and to specify the plans to which the permission/consent relates.
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Decision

1. The appeal is allowed and planning permission is granted for Variation of condition 2 to planning application 20/2839M - Planning Application for demolition of existing single storey garage and construction of new single and double storey extensions to rear and side of existing house, with remodelling of the internal drive and the construction of a new free-standing double garage set back to the front garden at Summerhill, 10 Summerhill Road, Prestbury, SK10 4AH in accordance with the terms of the application, Ref 20/5041M, dated 11 November 2020, subject to the 5 conditions in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. In the banner heading above I have used the description of development from the decision notice and appeal documentation as it more concise.
4. Planning permission was granted in October 2020 for various alterations to 10 Summerhill Road, including a two storey side extension. A condition was imposed on the original permission specifying that the development shall be carried out in accordance with approved plans. This appeal seeks to vary that condition to specify alternative plan numbers, for an amended design to bring forward the side extension approximately 1.5m from that previously approved.

Main Issues

5. The main issues 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;
 - the effect on the openness of the Green Belt and
 - the effect of the proposal on the character and appearance of the host property.

Reasons for the Recommendation

Whether the proposal would be inappropriate development

6. The appeal site is occupied by a two-storey detached dwelling located on a large and spacious plot within the Green Belt in an area characterised by individually designed detached dwellings.
7. The Framework establishes that new buildings in the Green Belt are inappropriate, except in certain circumstances including where they involve an extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building as set out in paragraph 145 c). Policy PG3 of the Cheshire East Local Plan Local Plan Strategy 2010 – 2030 (LPS) is broadly consistent with the Framework in this regard, as is Policy GC1 of the Macclesfield Borough Local Plan (2004) (MLP) which sets out that the limited extension or alteration of dwellings is acceptable subject to compliance with Policy GC12.
8. The Framework does not explain what a disproportionate addition means. An assessment of whether the proposal would be disproportionate in size to the original building is therefore a matter of planning judgement. Saved Policy GC12 of the MLP however makes reference to extensions being acceptable where they are up to 30% of the original floor space and where they would not significantly alter the scale and appearance of the house. In terms of the Green Belt, the supporting text establishes that a proposal will be considered to be 'disproportionate' if the development would result in an increase of more than 30% of the original dwelling.
9. The proposed extension would be narrower than the existing dwelling, and lower in height, but it would be deeper, projecting beyond the rear and front elevations. The Council has calculated that the proposed extension would increase the floor space of the dwelling by approximately 46%. This would be in excess of the threshold set out within MLP Policy GC12 and what the Council considers to be a proportionate addition.

10. However, MLP Policy GC12 sets out a number of circumstances which the Council consider to be exceptions to this policy, including where the proposal lies in a group of houses or ribbon of development and the extension would not be prominent. No mention is made to an upper size limit within the policy or list of exceptions.
11. The host property lies within a residential area, with residential properties on each side and opposite. In this regard it is located within a group of houses. Although the new extension would be visible from the road, it would be viewed in the context of the host dwelling. It would be subservient in size and appearance to the host property with a lower ridge line and would be designed to respect the character and appearance of it. Although projecting forward of the existing front elevation, the proposal would be set back from the road and given its overall design and scale, it would not be prominent in the street scene, or from neighbouring land.
12. Thus, given my findings above I consider that the proposal should be viewed as an exception to the threshold set within MLP Policy GC12. It is noteworthy that the Council followed a similar approach when it granted planning permission for the extensions to the dwelling to which the disputed condition is attached.
13. Accordingly, for the reasons set out above I conclude that the proposal would not result in a disproportionate addition over and above the size of the original building and would not therefore comprise inappropriate development in the Green Belt. There would therefore be no conflict with the Framework, LPS Policy PG3, or MLP Policies GC1 or GC12.

Openness

14. The impact on openness is implicitly taken into account in a number of the exceptions to new buildings in the Green Belt, including that which relates to the extension or alteration of a building. Therefore, where the effect of the development on openness is not expressly stated as a determining factor in gauging whether development comprises inappropriate development in the Green Belt, there is no requirement in national policy to assess the impact of it on the openness of the Green Belt.

Character and Appearance of Host Dwelling

15. The proposed extension would be closer to Summerhill Road than the existing dwelling, although due to the position of the host dwelling within the plot, this would not appear prominent in the street scene. The design would respect the host property through the inclusion of the bay feature. Whilst the ridge would be further forward, the hipped roof and reduced ridge height would result in it being subordinate to, and in proportion with the existing dwelling, thereby according with LPS Policies SE1 and SD2 and the Cheshire East Borough Design Guide (2017) which amongst other matters require development to make a positive contribution to the areas character and distinctiveness.

Conditions

16. I have therefore omitted the disputed condition, and in accordance with Section 73(2)(a) of the Act, I have granted a new planning permission, while retaining the non-disputed conditions from the original permission, and amending the drawing numbers to reflect the revised proposal.

17. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have imposed all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
18. It should be noted that, in accordance with Section 73(5), the time limit for the commencement of the development specified in the original planning permission still applies. Therefore, a condition in this regard is necessary. The condition referring to approved plans is also necessary for the avoidance of doubt.
19. To protect the character and appearance of the area a condition is necessary controlling external materials. Whilst the appellant does not consider the conditions relating to the protection of trees appropriate, I have repeated them from the original planning permission as they are necessary to maintain the character and appearance of the area.
20. However, a condition limiting the use of the extension as imposed on the earlier permission does not meet the test of necessity set out within the Framework or Planning Practice Guidance (PPG) since any non-ancillary use would require planning permission. Accordingly, I have not attached this condition.
21. I have amended some of the wording of the conditions for conciseness and to accord with the guidance on conditions set out within the Framework and PPG.

Recommendation

22. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree that the appeal should be allowed.

RC Kirby

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin within 3 years of 14 October 2020.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans:

270-06 J Proposed Floor Plans
270-07 D Proposed Elevations 1 of 2
270-08 E Proposed Elevations 2 Of 2
270-09 Rev C Ground Floor Detail
270-10 Rev C First Floor Detail
270-11 D Hard Landscape
270-13 Rev A Proposed Roof Plan
270-05 A Block Plan / Area
270-14 Location Plan
270-15 Proposed Garage
SSS-9021 B Site survey
- 3) The external materials to be used in the development shall be in strict accordance with those specified in the application. Development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of development or other operations being undertaken on site a scheme for the protection of the retained trees produced in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations) shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

No operations shall be undertaken on site in connection with the development hereby approved (including demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
- 5) No trees, shrubs or hedges within the site which are shown as being retained on the approved plans and which are within influencing distance of the proposed works shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building or the development hereby permitted being brought into use

shall be replaced with trees, shrubs or hedge plants of similar size and species until the Local Planning Authority gives written consent to any variation.