



Appeal Decision

Site visit made on 13 July 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2021

Appeal Ref: APP/A0665/D/21/3272525

**8 Old Pale Heights, Mulberry House, Stoney Lane, Delamere, Northwich
CW6 0GL**

- 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 Simon Prescott against the decision of Cheshire West & Chester Council.
 - The application Ref 20/03180/S73, dated 1 September 2020, was refused by notice dated 1 March 2021.
 - The application sought planning permission for 'Application to vary Planning Permission 20/01632/FUL to include fire escape. - addition to condition 2' without complying with conditions attached to planning permission Ref 20/01632/FUL, dated 17 July 2020.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans:
Mulberry House; Site Location Plan.
Mulberry House; Proposed Ground Floor Garage and Gym; Dwg 5, Rev. G; Date 13.07.2020.
Mulberry House; Proposed 1st Floor Garage and Gym; Dwg 6, Rev. B; Date 8.07.2020.
Mulberry House; Proposed Garage Elevations; Dwg 11, Rev. G; Date 13.07.2020.
Mulberry House; Section Under Stairs; Dwg 13; Date 07.2020.
Mulberry House; Parking Site Plan; Dwg 14; Date 07.2020.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is allowed and planning permission is granted for 'application to vary Planning Permission 20/01632/FUL to include fire escape. - addition to condition 2' at 8 Old Pale Heights, Mulberry House, Stoney Lane, Delamere, Northwich CW6 0GL in accordance with the application Ref 20/03180/S73 dated 1 September 2020, without compliance with condition number 2 previously imposed on planning permission Ref 20/01632/FUL dated 17 July 2020 and subject to the following conditions:
 - 1) The development hereby permitted shall begin within 3 years of 17 July 2020.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Mulberry House; Site Location Plan.

Mulberry House; Proposed Ground Floor Garage and Gym; Dwg 5, Rev. K; Date 13.07.2020.

Mulberry House; Proposed 1st Floor Garage and Gym; Dwg 6, Rev. G; Date 8.07.2020.

Mulberry House; Proposed Garage Elevations; Dwg 11, Rev. H; Date 13.07.2020.

Mulberry House; Section Under Stairs; Dwg 13; Date 07.2020.

Mulberry House; Parking Site Plan; Dwg 14; Date 07.2020.

- 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) The building hereby permitted shall not be used at any time other than for purposes incidental to the residential use of the dwelling known as Mulberry House.

Preliminary Matters

2. During the course of the appeal the updated National Planning Policy Framework (July 2021) (the Framework) was published. The parties were provided with an opportunity to comment on its relevance to this appeal, and I have taken any subsequent comments received into account in my determination of this appeal.

Main Issues

3. The appeal site lies in the Green Belt. The main issues are therefore as follows:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
 - the effect of the proposal on the character and appearance of the host building, nearby dwellings and the area.

Reasons

Whether Inappropriate Development in the Green Belt

4. The appeal site comprises a detached garage associated with No.8 Old Pale Heights located within a complex of dwellings which were part of a barn conversion. The complex is surrounded by open countryside to all sides and the site is enclosed by long hedgerows and trees giving the area a tranquil and verdant character. The proposal seeks to vary the approved plans of application 20/01632/FUL to now include the erection of a raised platform to the side of the existing garage with a glass balustrade at first floor level.
5. Paragraph 147 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. Paragraph 149 states that the construction of new buildings in the Green Belt is inappropriate unless it meets one of seven specified exceptions. This includes 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 149(c).

6. Policy DM21 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the DPs) reiterates this approach in stating development will be supported where it would not result in disproportionate additions over and above the size of the original building. Both Policy DM21 and Policy STRAT9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (the SPs) state development will be assessed in line with the Framework.
7. The Framework does not define disproportionate addition, which is a matter of planning judgement. There is little explanation from the Council as to why the increase is considered disproportionate. The appellant has calculated a 9% increase in floor area over that of the garage, which I note is not disputed. While the Framework refers to size rather than floor space alone, the height of the platform would be set 3m below the ridge of the garage roof while the width would be approximately one-third that of the garage. The alteration would appear as a very minor addition in terms of scale, bulk and visual prominence relative to the nature of the original building and barn conversion as it stands.
8. For the above reasons the development would meet the exception set out in paragraph 149(c) of the Framework and would not be inappropriate development in the Green Belt. This would be consistent with the aims and objectives of Policy STRAT9 of the SPs and Policy DM21 of the DPs. The proposal would also accord with the aims of Green Belt guidance in the Framework.
9. Given my finding that the proposal is not inappropriate development by virtue of complying with NPPF paragraph 149(c), it follows that very special circumstances are not necessary to justify the scheme in that regard.

Character and Appearance

10. The platform is located on a side elevation of the garage which faces an embankment and rising topography. A hedge adds screening of the development from other dwellings and longer-range views from the surrounding countryside. As such I would not consider the proposal to be prominent in the area. Moreover, the timber construction of the platform and supporting frame along with the glass balustrade are lightweight materials which complement the garage and surrounding verdant character while remaining subservient in scale.
11. The garage has undergone recent changes which were subject to a grant of planning permission¹, while I observed on the site visit there is an existing fence enclosing the water tank of similar width to the proposal. I have been provided with the Officer Report for this development, which details the addition of a first-floor window, rooflights and glazed doors with side panels to the front and back elevations. A garage style door was retained to the front elevation in order to retain part of the utilitarian appearance of the building and its incidental relationship to the host dwelling.
12. The changes approved have altered the original character of the garage. Irrespective of the need for a fire escape or decked area, the addition of the platform does not harm its character and appearance in the context of these

¹ 20/01632/FUL.

approved changes. Moreover, given the location of the platform on the side elevation of the garage facing away from the host dwelling and the use of the building as a home office, gym and storage area it would remain incidental to the enjoyment of the dwelling.

13. Accordingly, the proposal would not conflict with Policies ENV2, ENV6 and STRAT9 of the SPs or Policy DM21 of the DPs. These seek, among other things, development which respects local character and takes full account of the characteristics of the development site, its relationship with its surroundings and where appropriate views into, over and out of the site.

Other Matters

14. The Council advises the host dwelling forms part of a Locally Listed Building. I have no information before me on this matter, such as the inclusion on a local list or details of the significance of the building in this regard. The Officer Report indicates the Council's Built Environment Officer (Conservation and Design), and Historic England had no observations to make on the proposal. I have therefore not considered this matter further.

Conditions

15. The guidance in the Planning Practice Guidance (PPG) 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.
16. 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.
17. A condition requiring compliance with the approved drawings is necessary, but I have amended the list of plans to reflect those changes approved. The suggested standard matching conditions would not be precise given the differing materials of the platform and host building. Therefore, a condition is necessary to ensure materials used in the construction of the platform correspond to those specified in the application documents. It is also necessary to impose a condition which limits the occupation of the garage to ensure the building remains ancillary to the main dwelling in line with the development for which permission was sought.

Conclusion

18. For the reasons given above I conclude that the appeal should succeed and a new planning permission without the disputed condition but substituting it and restating those undisputed conditions that are still subsisting and capable of taking effect.

C McDonagh

INSPECTOR