
Appeal Decision

Site visit made on 10 August 2021

by Paul Singleton BSc MA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 17 August 2021

Appeal Ref: APP/P2365/D/21/3274814

Westhead House, 155 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 Mrs Stephanie Dehy against the decision of West Lancashire Borough Council.
 - The application Ref 2020/0983/FUL, dated 23 October 2020, was refused by notice dated 17 February 2021.
 - The development proposed is to erect first floor extension above garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would constitute inappropriate development in the Green Belt and the effect on the openness of the Green Belt.

Reasons

3. Policy GN1 of the adopted West Lancashire Local Plan 2012-2027 (LP) states that development proposals in the Green Belt will be assessed against national planning policy. The relevant national policy is set out in Paragraph 149 of the revised (July 2021) National Planning Policy Framework (Framework). This states that the construction of new buildings in the Green Belt should be regarded as inappropriate other than in respect of the exceptions set out in that paragraph. One of these (sub-paragraph c) comprises 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"*. For the purposes of this provision the term 'original building' means the building as it existed on 1 July 1948 or, if constructed after that date, as it was originally built.¹
4. The appeal property comprises a large, detached house which stands in a substantial plot and which has an extensive garden to the rear. The original dwelling has previously been extended by means of:

¹ Glossary to the Framework on page 70.

- a) a two storey side extension with a frontage of approximately half the width of the original house and a single storey addition to the side of this (set back from the front elevation);
 - b) a single storey addition to the rear of the double garage (on the other side of the original house to the 2-storey extension);
 - c) a large conservatory to the rear of the dwelling.
5. The appeal proposal comprises a first floor extension above the full footprint of the double garage and existing addition to the rear of the garage (the 'snug'). The appellant's assessment that the proposal would result in an increase of 14% in the volume of the dwelling appears to have been made by assessing the volume of the proposal against that of the house as already extended rather than against the volume of the original building. The Council's assessment that, in combination with the previous extensions, the proposal would result in an overall increase of 64% compared to the volume of the original building is, therefore, to be preferred.
6. In my view, the 64% figure is likely to be an underestimate since my observations on my site visit are that the double garage does not appear to be part of the building as originally constructed. Even allowing for the benefit of doubt that the Council has applied to that part of the dwelling, a proposal that leads to an overall increase in volume by 64% would, in my view, clearly result in a disproportionate increase over and above the size of the original building. It is important to note in this context, that paragraph 149 of the Framework refers to disproportionate additions over and above the size (my emphasis) of the original building. Whilst volume is a useful indicator of size, regard should also be had to other matters such as the height and scale of the resultant building.
7. Although the proposal would not further increase the footprint of the dwelling as already extended it would add considerably to its height and scale. The secondary and subservient building element, within which the double garage and snug are accommodated, would be replaced by a full height, two-storey extension on the south east side of the house. In combination with the previous additions, this would result in the front and rear elevations being approximately twice as long as those of the original building and in very substantial additions to the roof of the property. The outcome would be a building which is of considerably greater volume, scale and visual bulk than that comprised in its original construction.
8. Having regard to these resultant effects, I find that the proposal would result in disproportionate additions over and above the size of the original building. The proposal does not, therefore, meet the criteria set out in paragraph 149 of the Framework and would constitute inappropriate development in the Green Belt. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. Reference has been made by both parties to Policy GB4 of the Council's 'Development in the Green Belt' Supplementary Planning Document (SPD)

(October 2015) which advises, in relation to proposed extensions, that proposals should satisfy the following criteria:

- the proposal, together with any previous extensions, alterations and non-original outbuildings, would not result in an increase of more than 40% above the volume of the original building (paragraph b), and
 - the design of the extension or alteration is in keeping with the original form and appearance of the building and does not materially harm the openness of the Green Belt through excessive scale or bulk or by virtue of its location (paragraph c).
10. The appellant accepts that the proposal would result in additions that exceed the 40% threshold. However, she points to a statement within the SPD that the 40% figure is only a guide and argues that an exception should be made because she considers that there would be a very limited effect on the openness of the Green Belt. The Council has rejected that argument.
11. In my view, the provisions within paragraph c) of Policy GB4 are not fully consistent with the Framework. Unlike other parts of paragraph 149, paragraph 149 c) does not require or indicate that regard should be had to the effect on openness when making a decision as to whether the exception criteria are met. When assessing a proposal under this part of paragraph 149, any potential effect on openness is to be taken into account in considering whether there would be any other harm to the Green Belt. It does not, however, form part of the decision making process as to whether the proposal meets the exception test. Accordingly, I have attached very little weight to that part of the SPD in reaching my conclusion that the proposal would amount to inappropriate development in the Green Belt.
12. The case law referred to by the appellant² has established that openness has a spatial as well as a visual aspect and that the absence of visual intrusion does not itself mean that there is no impact on openness. I agree that there is no express requirement on the decision maker to refer to visual impact when assessing the effect on openness but consider this to be a relevant factor in respect of the current appeal.
13. The appeal site benefits from a very high degree of screening as a result of the substantial vegetation to its various boundaries and the proposed extension would not be seen from neighbouring gardens or from many public vantage points. However, I saw on my site visit that significant parts of the existing roof, the front chimney and some upper parts of the front elevation are evident in views from Wigan Road. Those views are available as one approaches the property from the north west. Although filtered to a significant degree by intervening trees at the time of my visit these views are likely to be more open in winter.
14. In my assessment, the extensive area of additional roof created by the proposal would be visible in those views. It would be clear to the viewer that the building has been extended beyond the visual 'full stop' that is currently provided by the front chimney. The viewer would, accordingly, gain a visual

² Turner v SSCLG and East Dorset Council [2016] EWCA Civ 466 and R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council [2020] UKSC 3

appreciation of the building's increased scale and bulk and there would be a reduction in the visual component of openness. Although the footprint of the building would not be increased, there would be some, albeit limited, harm as a result of that reduction in the visual component of the openness of the Green Belt.

15. Paragraph 148 of the Framework requires that substantial weight is given to any harm to the Green Belt. It advises that the very special circumstances required to justify the approval of inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The benefits to be derived from the proposal in terms of increased living accommodation and the provision of a different access to the bedroom over the snug would be private benefits that would not outweigh the harm to the Green Belt. These do not, therefore, amount to the very special circumstances needed to justify a grant of permission in this appeal. Accordingly, I find that the proposal conflicts with LP Policy GN1 and with the Green Belt policies in part 13 of the Framework.

Conclusion

16. For the reasons set out above, I conclude that the appeal should fail.

Paul Singleton

INSPECTOR