



Appeal Decision

Site visit made on 1 February 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st March 2022

Appeal Ref: APP/A0665/D/21/3279376

Woodside House, Church Road, Saughall, Chester CH1 6EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 'Act') against a refusal to grant planning permission.
 - The appeal is made by Garry Bubb against the decision of Cheshire West and Chester Council.
 - The application Ref 21/00612/FUL, dated 10 February 2021, was refused by notice dated 16 July 2021.
 - The development proposed was originally described as "Proposed rear single storey kitchen extension, sliding glazed doors and rooflights/lantern to rear of property with new entrance lobby and two bay windows to front elevation."
-

Decision

1. The appeal is allowed and planning permission is granted for "rear single storey kitchen extension, sliding glazed doors and rooflights/lantern to rear of property with new entrance lobby and two bay windows to front elevation, a first floor balcony with privacy screen at the rear and a first floor Juliet balcony to the front" at Woodside House, Church Road, Saughall, Chester CH1 6EP in accordance with the terms of the application, Ref 21/00612/FUL, dated 10 February 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the approved plans: Location Plan, Plans & Elevations Drawing No.SK1 A, and Revised Plans and Elevations Drawing No.SK2 C.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those specified on the approved plan 'Revised Plans and Elevations Drawing No.SK2 C'.
 - 3) The first floor rear balcony hereby permitted shall not be brought into use until the obscure glazed privacy screen shown in Drawing No.SK2 C has been provided. Once installed the obscured glazed privacy screen shall be retained and maintained thereafter.

Preliminary Matters

2. The description of the development set out in the heading above is taken from the application form. However, the proposal was amended before the Council determined it, but the description was not amended accordingly. It is clear from the submitted evidence, revised plans and the Council's report to committee that the development also comprises a first floor balcony with privacy screen at the rear and a first floor Juliet balcony to the front. The Council dealt with the proposal on this basis and so have I.

3. A certificate of lawful development¹ (an 'LDC') was granted for a 'single storey extension to side and rear and replacement of existing conservatory roof with glazed lantern'. From the evidence before me and what I saw on my site visit this has already been constructed. Whilst the appeal proposal is part-retrospective, I have dealt with the appeal on its planning merits.

Main Issue

4. As the site is located within the North Cheshire Green Belt the main issues are:
- Whether the proposed development would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies,
 - The effect on the openness of the Green Belt, and
 - If the proposed development constitutes inappropriate development in the Green Belt, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

5. The appeal site comprises a detached bungalow that has been extended in the past with a first floor extension and a conservatory. It is located within the small settlement of Saughall on Church Road, which is lined on both sides with houses of various styles and designs and a number of commercial premises including a pharmacist and small supermarket nearby.

Whether the scheme is inappropriate development in the Green Belt

6. The Framework regards the construction of new buildings as inappropriate development in the Green Belt, subject to various exceptions set out in paragraph 149. These include c) for 'extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original² building.' The Framework states that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Policy STRAT 9 of the Cheshire West & Chester Council Local Plan (Part One) (the 'LP1') deals with 'Green Belt and Countryside' and refers to inappropriate development being harmful to the Green Belt. The exceptions listed in its paragraph 5.77 include most of the exceptions found in paragraphs 149 and 150 of the Framework. Hence the policy is broadly consistent with it, even though it does not include Framework exception 149c) for extensions or alterations to buildings.
8. In its committee report the Council also refers to Policy DM21 of the Cheshire West & Chester Council Local Plan (Part Two) (the 'LP2'). This policy supports extensions, alterations and outbuildings within the curtilage of a dwellinghouse subject to a number of criteria. In the Green Belt it states that the resulting development should not result in disproportionate additions over and above the size of the original building. This is in line with the exception in Framework

¹ LPA Ref: 21/01072/LDC granted 30th April 2021.

² In the Framework Annex 2 glossary, 'original building' is defined as "A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally"

paragraph 149c). The policy also cross-references with Policy STRAT 9 and national Green Belt policy in the Framework. I am satisfied that Policy DM21 is broadly consistent with the Framework.

9. Whilst the Framework does not define 'disproportionate' the supporting text to Policy DM21 states that extensions are generally expected to be 'subordinate' to the original dwelling and as a general guide should not increase the size of the original dwelling by more than 30%. The Council's House Extensions and Domestic Outbuildings Supplementary Planning Document reiterates the 30% increase and that in the Green Belt the increase in size of the original or existing dwelling will generally be determined by assessing the net increase in floorspace (measured externally). The Council has used this 30% threshold to help it assess 'disproportionate'.
10. The appellant states that the previously approved first floor extension and conservatory that have been built represent a 46.5% increase in floor area – the Council does not disagree. The appeal proposal would amount to a floor area increase of about 15.2 square metres. There is no dispute between the parties that the previous and proposed extensions combined would amount to about a 65% increase in floor area and the size of the original dwelling, which would exceed the policy guidelines of 30%. This would amount to disproportionate additions and therefore the development would be inappropriate development in the Green Belt.

Openness

11. Openness is an essential characteristic of the Green Belt and as a concept has both a visual and a spatial dimension. Cumulative small extensions do have the potential to erode the Green Belt and its openness, but each case needs to be considered on its own planning merits.
12. The appeal development would be physically present and occupy an extra 15.2 square metres on the ground that was previously free of built development. It would also occupy vertical space and have volume. The side and rear extensions are not visible from the public realm, although they are still capable of affecting openness. The two bay windows would be visible from the street, as would the Juliet balcony. However, these would be viewed as minimal enlargements against the backdrop of the front elevation of the property in a built-up street scene. The roof lantern and first floor rear balcony would be visible from the footpath alongside the property boundary and field to the rear, but they would be glazed lightweight structures with minimal impact.
13. I conclude there would be some reduction in the visual and spatial openness of the Green Belt. However, taking into account the site's built-up street scene context and the nature of the proposed development there would be no adverse impact on the openness of the Green Belt.

Other Considerations

14. The proposed side and rear extensions that contribute to the latest increase in floor area have already been approved and constructed under the LDC. Consequently, if I were to dismiss the appeal those extensions could legitimately remain, provided they have been erected in full accordance with the approved plans and I have no reason to believe that is not the case. This is a significant factor that weighs heavily in favour of the proposal. Some of the

alterations could also be carried out as permitted development³ regardless of the outcome of this appeal. As the submitted plans include details of these, I attach moderate weight to the likelihood of their happening.

Other Matters

15. Some local residents have raised concerns about precedent and that other balconies have been refused planning permission. I have not been provided with details of these other balconies and therefore cannot make any meaningful comparisons. Whilst consistency in decision-making is important, all decisions turn on their own particular circumstances based on the facts before the decision-maker at the time. I must consider the appeal before me on its own merits.
16. Third parties living adjacent and opposite at Rustic Cottage and Orchard House have raised concerns about overlooking from the rear balcony and the front Juliet balcony respectively. The Council has not raised concerns about overlooking or loss of privacy. Having regard to the evidence before me and what I saw on my visit including from the rear garden of Rustic Cottage, I have no reason to come to a different view.
17. Whilst it may be desirable for an appellant to inform their neighbours of any intention to submit plans or amendments, it is not a requirement as the Council undertakes the necessary consultation. This was done.

Green Belt Balance

18. In accordance with paragraph 147 of the Framework, inappropriate development in the Green Belt is, by definition, harmful. Inappropriate development should not be approved except in very special circumstances, which will not exist unless the harm to the Green Belt, by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
19. The appeal development would be inappropriate development in the Green Belt under the terms set out in the Framework. Whilst there would be some reduction in openness, I have found the openness would not be adversely affected. Nonetheless, in accordance with paragraph 148 of the Framework any harm to the Green Belt must be given substantial weight.
20. On the other side of the balance are the extensions granted and now built by the LDC, together with the other works shown that could be permitted development. I find that the other considerations in this case and their practical implications clearly outweigh the totality of the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. Despite some conflict with LP2 Policy DM21, the proposal accords with LP1 Policy STRAT 9 and the Framework.

Conditions

21. The Council has suggested a number of conditions and I have considered them against the advice in the Framework and Planning Practice Guidance. Where

³ Under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

necessary and in the interests of precision and clarity I have amended them to accord with the Planning Practice Guidance.

22. The standard condition to limit the lifespan of the planning permission is not necessary as the development has already begun. However, it is necessary to ensure that the other development components are carried out in accordance with the approved plans. In the interests of the character and appearance of the area it is necessary to impose a materials planning condition. To protect the amenities of adjacent occupiers it is necessary to condition that the privacy screen around the rear first floor balcony is installed and thereafter retained.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed subject to conditions.

K Stephens
INSPECTOR