



Appeal Decision

Site visit made on 11 February 2022

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 16th March 2022

Appeal Ref: APP/A0665/C/21/3285315

Rio, Ledsham Lane, Ledsham, Chester, Cheshire CH66 0NB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Russell Stewart against an enforcement notice issued by Cheshire West and Chester Council.
 - The notice was issued on 29 September 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a two- storey front extension ("the unauthorised development").
 - The requirements of the notice are to
 - Complete one of the following:
 - Option 1: Remove the two -storey front extension in its entirety, remove all resulting materials from the land as outlined in red on the attached enforcement plan, and restore the front elevation of the house to its previous condition.
 - OR
 - Option 2: Remove the two storey front extension and build a front extension in accordance with the following drawings submitted planning application 20/04054/FUL Drawing no.125_2020_05 revision C Proposed Elevations; and Drawing no.125_2020_03 revision C Proposed Floor Plans.
 - The period for compliance with the requirements set out in Option 1 or Option 2 is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (the Act) as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. Planning permission was granted on the 29 January 2021 (the approved scheme) for "enlargement of the dwelling by raising the roof height, the addition of front roof lights and rear roof dormers. Erection of two storey rear extension; Erection of single storey canopy link extension to the garage; Erection of single storey front extension."
3. Whilst the appellant has carried out the bulk of the approved scheme works, the development which consists of a front extension to the appeal dwelling is not part of the approved scheme. A retrospective planning application for the development was subsequently refused and the enforcement notice issued.

The appeal under ground (a) and the deemed planning application

Main Issues

- Whether the appeal development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any development plan policies
- the effect of the appeal development on the openness of the Green Belt,
- The effect of the appeal development on the character and appearance of the property and the surrounding area
- If the appeal development constitutes inappropriate development in the Green Belt, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations which amount to very special circumstances required to justify a grant of planning permission for the alleged development.

Reasons

4. The appeal site is situated within the North Cheshire Green Belt and consists of a detached two storey dwelling with a garage to the side and outbuildings to the rear within a substantial plot on Ledsham Lane not far from Ledsham Village. The appeal dwelling has views of fields to the opposite side of the lane and the prevailing character of the area is rural. Along the length of the country lane, there is sporadic built development with a mix of farm buildings, a garden nursery and dwellings.
5. The development is a two storey central extension to the front of the appeal dwelling. It has a glazed gable front with solid sides and eaves that are higher than the eaves across the rest of the front of the dwelling as well as a roof element that is higher than the rest of the roof. Although described as two storey, the central block of glazing extends from ground level to the apex of the roof of the development so that it does appear as three storeys when viewed from the outside.

Inappropriate Development

6. The Framework states that the fundamental aim of Green Belt designation is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Further, Paragraph 147 of 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. Paragraph 149 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but lists certain forms of development which are not regarded as inappropriate. These 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 at Paragraph 149 c).
8. Policy STRAT 9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies does refer to similar exceptions to those contained in Paragraph 149 of the Framework but does not include the exception relating to extensions and alterations but otherwise is consistent with the Framework.

However, Policy DM21 of the Local Plan(Part 2) which covers Green Belt and Countryside does specifically refer to extensions in the Green Belt not resulting in disproportionate additions over and above the size of the original building and therefore replicates the Framework wording and is more relevant than Policy STRAT 9 in assessing the development.

9. The appellant states that the development as compared to the approved scheme with an increase in volume from 25m³ to 55m³ assuming a volume of 985m³ for the approved scheme represents an increase of 3%. However, in assessing the extent of any increases, both the Framework and Policy DM21 state that any extension has to be assessed against the 'original building'. The Framework and Policy DM21 define the original building as a building as it existed on 1 July 1948 or if constructed after 1 July 1948 as it was built originally. Any calculations or comparisons therefore need to at least consider the building that existed prior to any approved scheme works being carried out not the difference between the approved scheme being carried out and replacing part of that scheme with the development.
10. Policy DM21 also refers to extensions being subordinate and not increasing the size of the original dwelling by more than 30%. The extent of works permitted under the approved scheme included an increase in floor space of 40% which the Council considered to be acceptable having regard to extensions that could have been built under permitted development rules despite being over the 30% figure referred to in Policy DM21. Prior to the development taking place, the appeal dwelling had already increased in excess of the 30% limit in Policy DM21 with works including an increase in the roof height across the appeal dwelling and a two storey rear extension. The development would represent a further increase in volume in a prominent location at the front of the appeal dwelling. The nature of the development with full front glazing from the ground floor to the apex of the new elevated roof section with eaves which are higher than the rest of the roof eaves emphasises the volume of the addition.
11. For the reasons given above, I do therefore consider that the development does result in a disproportionate addition over and above the size of the original dwelling. The development does not therefore fall within the exception set out in Paragraph 149 c) of the Framework and is therefore inappropriate development in the Green Belt.

Openness

12. An assessment of openness of any development in the Green Belt has both spatial and visual aspects. In terms of volume, the appellant considers that the size of the development would have no material effect upon the openness of the appeal dwelling as compared to the approved scheme. However, the development is larger than the front element of the approved scheme where the front of the appeal dwelling was one continuous front with a modest single storey front extension. Although, the development is within a residential appeal site, it is prominent and can be seen where travelling by car towards the village and by pedestrians. The development appears as a solid structure due to the elevated roof and eaves element and its solid sides. Overall, the development is a material addition to the amount of built development which has a harmful effect upon the openness of the Green Belt in this location.

Character and Appearance

13. The Cheshire West and Chester Council Supplementary Planning Document: House Extensions and Domestic Outbuildings (the SPD) seeks to ensure that extensions are subordinate to the main dwelling. Policy DM21 states that extensions should result in development that is keeping with the character and appearance of and is subordinate to the original dwelling and surrounding properties and the wider setting. Whilst the development has a glazed gable and vaulted ceiling to provide more internal natural light, the design and size of the development is in contrast to the rest of the appeal dwelling. Whilst extensions are normally subordinate, the expanse of glazing and the increase in height of the eaves with the elevated roof section does result in the development being over dominant and out of keeping with the dwelling.
14. Whilst the design itself is said to be of high quality, the relevant policies and the Framework refer to development being in keeping and respecting the character of appearance of both the existing building and the wider area. The context of the design has to be therefore considered. In comparison to the development, the approved scheme with a modest single storey front element provided for a continuous eaves and roof line along the front of the dwelling complies with Policy DM21 in terms of being in character with the appeal dwelling.
15. Within the vicinity of the appeal dwelling and along Ledsham Lane, the designs of other buildings are of a more traditional character without elevated front projections or extensive front glazing. The elevated height of the development which is in a prominent location projecting beyond the front of the appeal dwelling with the glazed element from ground floor to the apex of the elevated roof is not subordinate to the rest of the appeal dwelling and is out of keeping with the character of the surrounding area.
16. The appellant has provided photographs of other dwellings and buildings which he considers are comparable to the development. No addresses or further details are provided although I was able to see some of the examples provided along Ledsham Lane as part of my site visit. However, a number of the buildings are lower than the appeal dwelling with less visibility from the road due to both the size of the buildings and with only the traditional roof elements visible from the road due to extensive natural boundary treatments in the form of trees and hedges.
17. The building with the two storey glazed element is not directly comparable to the appeal dwelling as the glazed element is lower than the main building and is not part of the front elevation. I do not find any of the examples provided to be comparable to the development in terms of the location or nature or extent of the development. It remains the case that each development or proposal has to be assessed on its own merits having regard to its own particular circumstances.
18. The appellant has referred to the location of the appeal dwelling as not being isolated and the set back from the road and the difference between the approved scheme and the development between minor. However, for the reasons given, I do not consider the differences to be minor. Similarly, the development is not screened from all public vantage points due to its height in relation to the boundary treatment which is largely fencing with some soft landscaping. The buildings to the rear of the appeal dwelling are set further

back and are largely blocked from public vantage points by the appeal dwelling of which the development is part. The presence of commercial development in the wider area does not alter the largely rural character of Ledsham Lane or the assessment of the development in terms of character and appearance as part of a residential dwelling.

19. For the reasons given, the development does harm the character and appearance of the appeal dwelling and the area. It is therefore contrary to Policy ENV6 of the Local Plan Part 1 and Policies DM21 and DM3 of the Local Plan Part 2. These policies seek to ensure that development respects the scale, character and appearance of the property and area, and is subordinate to the host property.
20. It would also be contrary to the guidance in the SPD which amongst other things states that front extensions should take into account the character of the existing building and surrounding buildings. It also states that two storey front extensions are unlikely to reflect the character and appearance of the existing building and are unlikely to be supported. It is also contrary to Paragraph 130(c) of the Framework which amongst other things states that developments should be sympathetic to local character.

Other Considerations

21. Very special circumstances to justify inappropriate development will not exist unless harm to the Green Belt by reasons of inappropriateness and any other harm is clearly outweighed by other considerations.
22. The appellant has referred to other material considerations which he considers to be very special circumstances. However, matters such as the location of the appeal building and that it is not isolated, the set back from the road, the difference between the approved scheme and the development, whether the development represents visual improvement, whether or not there is harm to openness are all matters that relate to the character and appearance of the development and which I have addressed in Paragraph 18. I attach neutral weight to these matters.
23. Whilst the development was designed to increase the amount of light to benefit the living conditions of occupiers of the appeal dwelling, other more modest options to increase natural light could have been considered including alternative changes to the approved scheme to provide less new development. This is a matter to which I attribute limited weight.
24. The considerations advanced by the appellant do not either separately or collectively do not clearly outweigh the totality of the harm caused to the Green Belt. The very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
25. In conclusion, I have found that development does represent inappropriate development in the Green Belt which is, by definition, harmful. I have also found harm to openness. 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. Any harm to the Green Belt must be given substantial weight. I have also found harm to the character and appearance of the appeal dwelling and the surrounding area. The other considerations do not

outweigh the harm that I have identified. The development is therefore in conflict with Policy DM21, Policy ENV6, the Framework and the SPD guidance.

Conclusion

26. For the reasons given, I conclude that the appeal should be dismissed and the enforcement notice be upheld.

E Griffin

INSPECTOR