



Appeal Decision

Site visit made on 12 April 2022

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/A0665/D/22/3290167

Wych Elm, Stable Lane, Mouldsworth, Chester, CH3 8AN

- 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 Mr and Mrs L Jones against the decision of Cheshire West and Chester Council
 - The application Ref: 21/00512/FUL dated 4 February 2021, was refused by notice dated 7 October 2021.
 - The development proposed is construction of a double garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - i) Whether the proposal would be inappropriate development in the Green Belt having regard to National planning policy and relevant development plan policies.
 - ii) The effect of the proposal on the openness of the Green Belt.
 - iii) The effect of the proposal on the character and appearance of the surrounding area; and
 - iv) If it is inappropriate development, whether harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances needed to justify the development.

Reasons

Whether inappropriate development in the Green Belt

3. The proposed building (as amended from an earlier scheme and as refused by the Council) measures 7.0m x 8.2m with an overall height of 5.5m. It would comprise a double garage below and office space above, lit by roof lights, and be accessed via an external stair. The building would be sited in front of the principal elevation of the dwelling close to the front boundary.
4. The site is within the North Cheshire Green Belt which washes over the settlement of Mouldsworth. National policy on Green Belts is set out in Section 13 of the *National Planning Policy Framework* (the Framework). Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

- Development in the Green Belt is inappropriate (and only permissible under very special circumstances) unless it falls within the closed lists of exceptions set out in paragraphs 149 and 150.
5. One of these exceptions, (in paragraph 149c) is the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. The term 'original building' is defined in the Framework as a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.
 6. Policies STRAT9 of the *Cheshire West and Cheshire Local Plan Part One* (CWCLP1) and DM21 of the *Local Plan Part Two* (CWCLP2) are consistent with the Framework, and Policy DM21 says extensions, outbuildings, and other structures within a domestic curtilage in the Green Belt will only be supported where the resulting development would not result in disproportionate additions over and above the size of the original building.
 7. Neither the Council's policies nor the Framework make specific reference to outbuildings within the curtilage of a dwelling in the Green Belt, although the Supplementary Planning Document: *House Extensions and Domestic Outbuildings* (SPD) says these will generally be regarded as inappropriate development. However, the Council explains that it takes a pragmatic view and will generally treat outbuildings within 5.0m of a dwelling as an 'extension' rather than a new building. In this case the proposed building would be about 4m of the house, and I too am satisfied it may be treated as an extension to be assessed under the parameters of Framework paragraph 149 c).
 8. Nor does the Framework explain what a 'disproportionate' addition means. An assessment of whether the proposal would be disproportionate to the original building is therefore a matter of planning judgement, although CWCLP2 Policy D21 sets a guideline of 30%. In this case the original dwelling was modest in terms of its size, and by the Council's calculations, the proposed garage taken together with previous extensions would amount to a 94% increase in floor space. These calculations have not been disputed by the appellant.
 9. This is a substantial variation from the 30% policy guide and the proposed building, taken together with previous extensions, would almost double the floor space of the original dwelling. I therefore conclude on this issue that the proposal does not meet any of the exceptions set out in Paragraph 145 c), would be disproportionate, and therefore amount to inappropriate development in the Green Belt.
 10. It is therefore necessary for me to consider whether any other harm would be caused by the proposal, and then balance the other considerations against the totality of that harm in order to determine whether very special circumstances exist to justify the proposal.

Openness of the Green Belt

11. Openness is identified in the Framework as one of the Green Belt's essential characteristics, and the construction of the proposed building within a currently undeveloped front garden would clearly have an effect on the openness of the Green Belt in a spatial sense. Furthermore, the prominent position of the building would also have a significant visual impact on the openness of the Green Belt when seen from Stable Lane and Station Road. However, I accept in

this case that the totality of harm caused to the openness of the Green Belt would be limited.

Character and Appearance

12. CWCLP1 Policy STRAT9 requires development to be of an appropriate scale and design so as not to harm the character of the countryside and says additional restrictions will apply to development in the Green Belt in line with the Framework. CWCLP1 Policy ENV6 and CWCLP2 Policy DM3 say development will be expected to achieve a high standard of design that respects the visual amenity of the local area. CWCLP2 Policy DM21 says development should be in keeping with the character and appearance of, and is subordinate to, the original dwelling, surrounding properties, and the wider setting. Similarly, the SPD advises that extensions and outbuildings shall be subordinate to the main dwelling, adding that the design and scale of any extension/outbuilding will be determined by that of the host dwelling.
13. The surrounding area is characterised generally by large, detached houses in generous plots with all properties enjoying large and undeveloped front gardens. Open fields on two sides of the site give the immediate surroundings a predominantly rural character.
14. The proposed building would intrude into the currently open front garden environment and extend forward of the reasonably uniform building line established on this side of Stable Lane. Although the amended scheme has reduced the overall height, it would only be about 2.0m lower than the main ridge. This factor, together with its scale and forward position mean that it would not read visually as being subordinate to the dwelling. Furthermore, although the building would be partly screened from Stable Lane by existing vegetation on the boundary, and from the hedgerow along Station Road, it would still be visible from certain viewpoints, and more especially during the winter months.
15. Having regard to the above, I consider the proposed building would appear as an overly dominant and obtrusive feature and I conclude on this issue that it would be materially harmful to the character and appearance of the surrounding area. As such, it would conflict with CWCLP1 Policies STRAT9 and ENV6, CWCLP2 Policies DM3 and DM21, and advice in the SPD. It would also conflict with the Framework's objective that development should add to the overall quality of an area and be sympathetic to local character and the surrounding built environment.

Other Considerations

The Fallback Position

16. The appellant says if the appeal is dismissed, other options making use of permitted development rights (the 'fallback position') would be considered. Although the property's permitted development rights were removed by a condition attached to a previous permission (16/05347/FUL), they since been reinstated. Indicative plans showing how this could be achieved have been submitted which show a combination of single-storey extensions to either side of the dwelling, and a small, detached home office building in the rear garden.
17. For a fallback position to be a relevant material consideration, the basic principle is that it must be a real prospect. For the prospect to be real, there

must be a greater than theoretical possibility that the development might take place. Paragraph 3.1q of the SPD provides clear guidance with regard to the permitted development fallback position and advises that it is only capable of being a material planning consideration where; 1) it would provide the same type of accommodation and is in a similar position to that applied for; 2) the fallback scheme would result in equal or greater harm; and 3) there is a realistic prospect that the fallback scheme would be implemented,

18. I am satisfied there is a reasonable prospect that the fallback scheme would be implemented, and that the same type of accommodation would be provided. Consequently, it represents a viable fallback position. However, the degree of weight to be given to the fallback position depends on whether it would be equally or more harmful than the scheme proposed.
19. The fallback position differs from the appeal proposal in that the form of the development in that case would be restricted to single storey elements to the side and rear of the dwelling. Whilst I acknowledge that the appeal proposal would be contained in one building, would have a much lower overall footprint, and would be less sprawling than the fallback position, the extensions and garden office proposed would represent subordinate buildings which would not add to the bulk of the original property. In contrast, the appeal proposal would result in greater harm being caused to the Green Belt and its openness due to its prominent location, bulk, and height. Consequently, for these reasons I consider the fallback position carries limited weight.

Other examples.

20. The appellant has referred to many other examples of development which the Council has permitted in the Green Belt. Some are in close proximity to the site. Other examples are elsewhere in Mouldsworth, in nearby villages, and more generally within the District. They include garages, home offices, other outbuildings, stables, conventional extensions, and new-built dwellings. The decisions also cover a very wide-ranging time period, from the 1970s to the present day, although the more recent approvals are emphasised. Whilst I have taken these into account, all have particular combinations of policy, site-specific, locational, design, permitted development, and/or fallback positions which means they cannot be directly compared with the case before me, and thus carry no weight in favour of the proposal.
21. I accept that a more direct comparison may be drawn in respect of the detached garage/garden store permitted in the front garden of Swinford House, as this property is almost opposite the appeal site. However, based on the information before me, that building is significantly smaller in footprint and height, has single-storey accommodation only, and is set back slightly further from the highway. Furthermore, the Council considered it did not represent a disproportionate addition, and therefore the special circumstances needed to justify inappropriate development did not apply. Therefore, given these significant differences, I do not consider that any meaningful comparison may be made, or any precedent set.
22. The appellant has also referred to the various structures which have been erected on the field adjacent to the site, which extends to Station Road. However, these structures (some of which seem to be poultry or animal shelters of some kind) are not within a domestic curtilage, are all fairly modest in size, and will have been assessed against different Green Belt policy criteria.

Other Matters

23. The appellant has suggested I consider an alternative 'compromise' scheme (described as 'stage 2'). This shows the first-floor office accommodation omitted entirely and the ridge height reduced to 4.5m. However, this is markedly different from the scheme as submitted and determined and would materially alter the nature of the proposal. The appeal process should not be used to evolve a scheme and it is important that what is before me is essentially what was considered by the Local Planning Authority, and on which interested people's views were sought.

Green Belt Balance and Conclusion

24. I do not question the appellant's need for a larger and more practical garage and home office and accept that the difficulties which prevent a single suitable building being erected to the side of the dwelling or in the rear garden. These include space constraints, access difficulties, and the presence of utilities in the existing garage

25. However, the proposal would be inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt. It would also result in limited harm to Green Belt openness and would materially harm the character and appearance of the surrounding rural area. As set out in Paragraph 148 of the Framework, very special circumstances will not exist unless the harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

26. On analysis of all the above, the harm by reason of inappropriateness, and the other areas of harm I have found, is clearly not outweighed by other considerations, including the fallback position and other developments permitted by the Council. Consequently, the very special circumstances necessary to justify the proposal have not been demonstrated.

27. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Nigel Harrison

INSPECTOR