



Appeal Decision

Site visit made on 5 May 2022

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th May 2022

Appeal Ref: APP/A0665/D/22/3293743

3 Leaswood Cottages, New Hey Lane, Willaston, Neston, CH64 2UU

- 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 Lee Mclachlan against the decision of Cheshire West & Chester Council.
 - The application Ref: 21/03037/FUL dated 16 July 2021, was refused by notice dated 21 February 2022.
 - The development proposed is the erection of a two-storey side extension and rear extension following demolition of existing garage and front porch.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a two-storey side extension and rear extension following demolition of existing garage and front porch at 3 Leaswood Cottages, New Hey Lane, Willaston, Neston, CH64 2UU in accordance with the terms of the application, Ref: 21/03037/FUL dated 16 July 2021, subject to the conditions set out in the Schedule attached to this decision.

Main Issues

2. The main issues 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) If it is inappropriate development, 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 host dwelling and 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 proposal comprises a two-storey side extension and single-storey rear extension wrapping round two of the elevations of the exiting dwelling. A detached garage close to the dwelling would be demolished to accommodate

the extension, as would a small front porch and a very small laundry room to the rear.

4. The site is within the North Cheshire Green Belt which washes over this small group fairly isolated properties. 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 one of the lists of exceptions set out in paragraphs 149 and 150. One of these (149c) permits 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.
5. Policies STRAT9 of the *Cheshire West and Cheshire Local Plan Part One* (LP1) and DM21 of the *Local Plan Part Two* (LP2) are consistent with the Framework, and Policy DM21 says extensions in the Green Belt will only be supported where the development would not result in a disproportionate addition over and above the size of the original building. As a general guide, the supporting text to the policy says extensions should not increase the size of the original dwelling by more than 30%, and this will generally be determined by assessing the net increase in floorspace measured externally.
6. Whether or not the existing garage is assessed as being part of the 'original dwelling', it is agreed by the parties that the proposed extensions would represent an increase well in excess of the policy guide of 30% guide. I therefore conclude on this issue that the proposal does not meet any of the exceptions set out in Paragraph 149 c), would be disproportionate, and would therefore amount to inappropriate development in the Green Belt.
7. 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

8. A fundamental aim of Green Belt policy is to keep land permanently open. Openness is one of the essential characteristic of the Green Belt and can be measured in terms of a development's spatial and visual impacts.
9. In visual terms the extensions would be visible from the lane, and to a lesser extent from the open fields behind, although this impact would be mitigated to some extent by existing screening. However, the extensions would occupy a largely undeveloped area, and notwithstanding the removal of the existing garage, this would thus lead to a loss of openness in spatial terms.
10. One of the five purposes of Green Belt designation is to safeguard the countryside from encroachment. Further to my findings on the visual and spatial aspects of openness, the proposal would conflict with this purpose.
11. I therefore conclude that there would result in some loss of Green Belt and there would be some impact on one the purposes of including land within it. However, I am satisfied in this case the harm caused would be limited.

Character and Appearance

12. LP1 Policy ENV6 requires a high standard of design and for development to be compatible with local character. Amongst other things, LP2 Policy DM21 says, development will only be supported where it is in keeping with and subordinate to the character and appearance of the host dwelling and its wider setting. Such an assessment will take account of scale, height, massing, materials, visual appearance and landscaping. This approach follows through into the *Supplementary Planning Document on House Extensions and Domestic Outbuildings* (SPD), which says side extensions will be supported where they are subordinate to the main building and do not exceed 50% of the width of the house, taking account of the potential for such extensions to disrupt the symmetry of a dwelling or group of dwellings.
13. The proposed extension would meet the general conditions of the SPD in that it would not exceed half the width of the original building, would be set back from the front elevation, and would have a ridge height lower than that of the main ridge. Although the new roof would largely replace the existing 'cat-slide' roof on the side elevation and add to the mass of the roof seen from the front, I am still satisfied that the extension would be subordinate in appearance to the host dwelling, which would continue to be dominated by the distinctive front gable. Although the extension would unbalance the balance of the row of three dwellings to some extent, I do not find this factor by itself to be harmful, particularly as the row only has a loose symmetry, and the dwellings are not identical in appearance.
14. The Council says the introduction of large, glazed areas in a modern style would be at odds with the Arts and Crafts cottage style of the original building. However, the contrast in styles would be only readily visible from the side and would not detract markedly from the distinctive architectural character of the front elevation. Although the extension would also be visible from the rear, this elevation has previously been altered with modern fenestration, and the extension would not be out of keeping with its present appearance.
15. Framework paragraph 130 says development should be visually attractive and sympathetic to local character and the surrounding built environment whilst not preventing or discouraging appropriate innovation or change.
16. Overall, I conclude on this issue that the proposal represents an acceptable design solution that would harmonise with the style of the dwelling and respect the character and appearance of the area. As such, there would be no conflict with LP1 Policy ENV6, LP2 Policies DM21 and DM3, and advice in the SPD.

Other Considerations

The Fallback Position

17. If the appeal is dismissed the appellant says a fallback position exists because as single-storey side and rear extensions could be built as permitted development, and as approved in June 2021 through the issue of a Lawful Development Certificate (LDC). A replacement detached garage in a position to the south of the dwelling was also included within the LDC and has been built.
18. Paragraph 3.1q of the SPD provides clear guidance on the permitted development fallback position and says it is only capable of being a material planning consideration where: 1) it would provide the same type of

- accommodation in a similar position to that applied for; 2) where the fallback scheme would result in equal or greater harm; and 3) where there is a realistic prospect that the fallback scheme would be implemented.
19. Compared with the fallback position (which includes the retention of the garage adjacent to the dwelling for use as a home office), the appellant says the appeal proposal would occupy a smaller overall footprint (about 7.6sqm less if the open front porch is included in the calculations), would create a more compact and less intrusive form of development, and would thus be less harmful in Green Belt terms.
20. Although the appeal proposal includes first-floor accommodation and would represent a sizeable extension, it still provides similar accommodation to the fallback scheme but in a more integrated and cohesive form. Also, in quantitative terms there would be a slight reduction in the overall footprint. I therefore conclude that the fallback scheme would have a greater material effect on Green Belt openness than the appeal proposal. Moreover, given that a LDC has been issued I consider there is a strong possibility that it would be implemented were this appeal to fail.
21. In addition, I consider the appeal proposal would represent an improvement in terms of the character and appearance of the host dwelling and surrounding area compared with the fallback position which incorporates a somewhat unsympathetic and jarring flat roof to the highly visible side extension. For the above reasons the fallback position is a significant material consideration in the determination of this appeal, and I afford it substantial weight.

Other Matters

22. Local residents have raised many issues including dominance of the extension and concern that it would unbalance the row of houses, the unsympathetic design, possible overlooking from the large windows, and problems of drainage disposal. Whilst I note these and other points, none is sufficient to alter the considerations that have led to my conclusion. I also note the letters in support of the proposal from other local residents.

Planning Balance and Conclusion

23. The proposal constitutes inappropriate development in the Green Belt. It would also result in some harm to the openness of the Green Belt and the purposes of including land within it. The Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that harm. As set out in paragraph 148 of the Framework, very special circumstances to justify the development will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
24. For the reasons given above I afford substantial weight to the fallback position, and as a consequence very special circumstances exist to clearly outweigh the harm and justify inappropriate development in the Green Belt. It would comply with the Framework's Green Belt policy as very special circumstances exist.
25. I have concluded that the proposal would not harm the character and appearance of the host dwelling and area, and no other (non-Green Belt) harm exists. Overall, I am satisfied that the proposal does not conflict with policies of the development plan taken as a whole.

26. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

27. I have considered the conditions put forward by the Council in the light of the advice in the *Government's Planning Practice Guidance*. In addition to the standard time condition, a condition requiring matching materials is needed in the interests of the character and appearance of the area. A condition is needed to secure compliance with the submitted plans for the avoidance of doubt and in the interests of proper planning.
28. A condition is suggested to remove normal permitted development rights for the erection of a building, extension or structure within the site curtilage. I consider this is justified in order to safeguard the openness of the Green Belt and the character and appearance of the area.

Nigel Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2020 030 001 Rev 02 Existing Plans and Elevations; 2020 030 003 Rev 07 Proposed Plans and Elevations.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) Order 2015* (or any Order revoking or re-enacting that Order with or without modification), other than the development hereby approved no building, extension or structure shall be erected or placed within the site curtilage of the dwellinghouse without the grant of planning permission by the Local Planning Authority.