



Appeal Decision

Site visit made on 14 June 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2022

Appeal Ref: APP/A0665/W/22/3290970

Kirklington, Mannings Lane, Hoole Village, Chester CH2 2PB

- 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 Chada Nicholas against the decision of Cheshire West and Chester Council.
 - The application Ref 20/03948/FUL, dated 25 October 2020, was refused by notice dated 1 November 2021.
 - The development proposed is the demolition of two single garages and replacement with new 3-car garage with guest rooms over.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description appearing in the banner heading above is taken from the planning application form. The description of development was later changed to 'the demolition of two single garages (retrospective) and erection of a three-car garage with annex accommodation over'. This was agreed by the main parties and was used by the appellant on the appeal form following the Council's use of it on its Decision Notice. I have proceeded on the basis of the revised description.
3. There is some disagreement between the main parties as to the lawful extent of the garden area associated with the dwelling. It is not for me, under a section 78 appeal, to determine whether or not an existing development is lawful. To that end, it is open to the appellant to apply for a determination under s191 of the Town and Country Planning Act 1990 and my determination of this appeal under s78 does not affect the issuing of a determination under s191 regardless of the outcome of this appeal.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the relevant development plan policy
 - the effect of the proposed building on the character and appearance of the locality, and
 - if the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other

considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

5. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework makes it clear that new buildings are inappropriate in the Green Belt. However, an exception is made in the case of the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
6. Policy STRAT 9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (the LP1) and Policy DM21 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the LP2) confirm that the restrictions in the Framework will apply in Green Belt locations.
7. The Council recognises that a further exception to the Green Belt policy of restricting new buildings in the Green Belt is the extension of a building, provided that it does not result in disproportionate additions over and above the size of the original building. However, the Council's adopted approach, set out in the Cheshire West and Chester Council Local Plan Supplementary Planning Document: House Extensions and Domestic Outbuildings [2021] (the SPD), explains that outbuildings will only be considered as an extension where it lies within 5 metres of the main dwellinghouse. Accordingly, in the circumstances of the case, the building would not fall within the scope of that exception.
8. According to the appellant, two single detached garages were previously removed from the site due, in part, to the inclusion of asbestos in their construction. However, the evidence relating to their scale is limited. The submitted plans indicate that the former buildings covered a combined area of some 37.52m². The appellant estimates that the proposed building would be about 74.58m² in area.
9. The explanation to Policy DM21 of the LP2 indicates that for replacement dwellings in the Green Belt, the building would be materially larger if it was increased by 10%. I see little reason why this approach would not apply to other types of building in the Green Belt. However, even acknowledging that the adopted limit for the extension of existing buildings would allow for up to 30% increase in footprint, the proposed building would be substantially beyond those limits compared to the area of the former buildings.
10. Furthermore, Policy DM21 and the SPD indicate that where significant increases in the height of a building occur, then the net increase in volume will also be taken into account. Whilst there is insufficient information before me to enable such a comparison, I have little doubt that a 2-storey building with substantially larger floor area would be materially larger than the cumulative size of the former single garage buildings.
11. As a building of a materially larger footprint and volume, the proposal would cause harm to the spatial openness of the Green Belt. Although its visual effect

would be limited on account of the extent of existing vegetation cover about the site and some screening by existing development, it would be partially visible from the open section of the site's frontage. Accordingly, a limited adverse effect on the visual openness of the Green Belt would also arise.

12. The stipulation in Paragraph 149d) requires that the replacement building should be in the same use as the one it replaces. As domestic garages, there is no dispute that the former buildings would have provided for uses incidental to the use of the dwelling. Although the proposal incorporates garaging, it also includes a full suite of primary living accommodation to the extent that it would be capable of being used as an independent unit of accommodation.
13. There is no dispute between the main parties that ancillary accommodation can be provided within detached domestic outbuildings. As a building reliant on the same access and services, and located close to the main house, it would be capable of serving that function. Furthermore, according to the appellant, the intended occupier/s would provide continuous direct support to the household in the main house.
14. Although the extent of accommodation would be unnecessarily large, as advocated in Policy DM21 the specific nature of its use could be controlled through a planning condition or agreement under s106 of the Town and Country Planning Act 1990. Accordingly, based on the evidence before me, I am satisfied that the proposed use would not result in a separate planning unit and would be ancillary to the occupation of the main dwelling. Therefore, the domestic use would be consistent with the previous buildings' use for the purposes of the Green Belt assessment.
15. Notwithstanding my findings in respect of the proposed use, for the above reasons, the proposal would not fall within the identified exception at Paragraph 149d) of the Framework. It would be materially larger than the buildings it would replace and would cause harm to the openness of the Green Belt. It would constitute an inappropriate form of development in the Green Belt. For those reasons, it would conflict with Policy STRAT 9 of the LP1 and Policy DM 22 of the LP2 as they seek the protection of the Green Belt.

Character and appearance

16. The site lies on a rural lane extending from the edge of the built-up area of Chester. The locality appears transitional between the planned residential areas of the settlement to the west of the A41 and the open rural landscape to the east. In the vicinity, residential development is characterised by individually designed detached and semi-detached houses set behind enclosed front gardens with private amenity spaces to the rear.
17. Ancillary buildings within the nearby residential plots are generally single storey and of modest scale. The majority are set behind or alongside the principal buildings.
18. The proposal would be significantly larger than the predominant scale of outbuildings visible in the locality. Although it would be subordinate to the height of the main dwelling and could be constructed in similar materials, the building's overall scale, including 2-storey elevations, would be significant and to the extent that it would visually compete with that of the main dwelling.

19. In support of the proposal, the appellant refers me to examples of outbuildings with large footprints or similar overall heights nearby. However, these generally have low eaves lines and retain a substantially greater difference in scale between the primary and incidental buildings such that the subordinate relationship is readily apparent. They are distinct from the case before me where the building would be disproportionately large compared to the dwelling. Moreover, the examples referred to me by the appellant are very much in the minority and the existence of development elsewhere does not represent an appropriate reason to find in favour of a proposal that would cause harm to the character of the locality or lead me to alter my findings on this issue.
20. For the above reasons, I find that the proposed scale of the building would starkly contrast with that of characteristic residential outbuildings typical of the vicinity. It would conflict with Policy DM21 of the LP2, the SPD and the Framework as they seek the design of development to maintain proportionality and be in keeping with the character and appearance of development in the locality.

Other Considerations

21. In conjunction with the interests of consistent decision making, the appellant has referred me to examples of other outbuildings elsewhere which were approved by the Council. A development at Roselea, Mickle Trafford, was for a single storey building with rooms in the roof space. It has a sizeable footprint but low eaves with a less bulky appearance. It appears of a subordinate scale to the main dwelling. Moreover, similar to other developments on Long Lane and Mannings Lane, it was approved under the terms of a development plan preceding the current local plan. As with an approved development at Palm Valley on Greenfield Lane, there is little information provided to enable me to draw comparisons, or otherwise, with the appeal scheme. These examples are therefore of limited weight in the appeal.
22. In support of the proposal the appellant has directed me to the potential future daily living needs of an individual residing at the property. Disability is a 'relevant protected characteristic' and I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
23. In respect of the above, whilst I acknowledge the benefits that would result to the appellant's relative, I note that care provision is not solely dependent on the proposed development. It could be achieved through alternative means or the implementation of a less impactful form of development. Consequently, although a refusal of planning permission may restrict the combined scale of garaging and accommodation proposed, it would not prevent the extension of the dwelling or prejudice the ability to accommodate carers on the site otherwise. Accordingly, those personal circumstances, which would be outlasted by the permanent nature of the proposed development, are not a strong justification for setting aside national and local policies with the legitimate aim of protecting the essential characteristics of the Green Belt in

the public interest. I therefore attach them limited weight having regard to the particular circumstances of the case.

24. I note that, according to the appellant, a sizeable building could be constructed under permitted development rights attached to the property. However, as any proposal including primary living accommodation would lie outside of the scope of the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, which provides only for incidental uses, I find this is a matter of limited weight. Even if it were the case that a detached building was to be constructed using those rights, the building would be constrained in its overall height such that the effects on visual openness of the Green Belt or the character of development in the locality would be more limited than those identified.
25. As requirements of the development plan, the absence of adverse impact on the living conditions of neighbouring residents is not a benefit in favour of the development.
26. I note the appellant's contention that no site visit was undertaken by the Council. I also note the concerns in relation to a Parish Council's compliance with its adopted procedures. However, these are not relevant matters in relation to the planning merits of the appeal.

Conclusion

27. The proposal is inappropriate development in the Green Belt and would cause harm to its spatial and visual openness. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. I have also found that the proposal would harm the character and appearance of the locality on account of the building's scale.
28. The considerations presented by the appellant, including the personal circumstances of an occupier of the main dwelling and the existence of large outbuildings elsewhere, whether taken individually or cumulatively, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist.
29. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not be allowed.

R Hitchcock

INSPECTOR