



Appeal Decision

Site visit made on 25 April 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Appeal Ref: APP/A0665/D/22/3290929

Moorsbrook Cottage, Peck Mill Lane, Frodsham WA6 0LJ

- 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 David Crossland against the decision of Cheshire West & Chester Council.
 - The application Ref 21/01949/FUL, dated 4 May 2021, was refused by notice dated 28 October 2021.
 - The development proposed is a single storey side extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is within the Green Belt. Accordingly, I consider that the main issues are:
 - Whether or not the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework ("the Framework") and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposed extension on the character and appearance of the host building and the area; and
 - If the proposal would be inappropriate development, whether or not the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

3. The appeal property is a two-storey detached dwelling, located on the south side of Peck Mill Lane. There are several outbuildings and sheds to the rear of the house. The site is in the Green Belt, and within open countryside outside of any settlement boundary. Peck Mill Lane is a no-through road, ending at Peck Mill Farm a short way west of the appeal site where it serves other, although it continues beyond that point as a public bridleway. The proposed development is the erection of a single-storey extension at the western end of the property, replacing an existing lean-to extension to provide an enlarged kitchen and family room.

Whether or not inappropriate development in the Green Belt

4. The Government attaches great importance to Green Belts. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very specific circumstances, while Paragraph 149 indicates that, other than for listed exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. One exception, provided for by Paragraph 149(c), is "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".
5. Policy STRAT9 of the 2015 Cheshire West and Chester Local Plan (Part One) Strategic Policies ("the Part One Plan") sets out the Council's strategic approach to development in the countryside, and indicates that within the Green Belt restrictions on development will be applied in line with the requirements of the Framework. Policy DM21 of the 2019 Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies ("the Part Two Plan") indicates that proposals for residential extensions will be supported where they comply with a range of criteria including that, in the Green Belt, there would not be disproportionate additions over and above the size of the original building. In this regard Policies STRAT9 and DM21 reflect, and are consistent with, the requirements of the Framework.
6. Moorsbrook Cottage has already been enlarged by the addition of various extensions. The original dwelling (comprising what is now the hall, cloakroom, utility room and family room on the ground floor, and two bedrooms, a family bathroom and an ensuite shower room at first floor level) had a floor area of around 126m². Having been expanded over the years, the house now has a floor area of around 192m², representing an increase of around 51% on the original building. These figures are all by the Council's calculation, although they have not been disputed by the appellant¹. The proposed extension would have a floor area of around 52m² (this time by the appellant's calculation), which taken with the other extensions would mean the floorspace of the original dwelling would have been extended by around 82% (again by the Council's calculation).
7. It is not clear either from the appellant's statement or the Council's officer report if these figures make some allowance for the area of the existing side extension which would be replaced as part of the scheme.
8. The Framework does not specify either in relative or absolute terms what might be a disproportionate addition. However, the supporting text to Policy DM21 indicates that, as a general guide, a 30% increase in floorspace would typically mark the point beyond which a proposal for an extension would not be likely to be considered acceptable, though I recognise that this does not set a hard and fast rule. It is clear however that, in any event, the proposed extension and previous additions would cumulatively result in the floorspace of the original building having been extended by a very significant amount.
9. The appellant has suggested that the limitation sought by Policy DM21 is "redundant in the context of the existing dwelling", as it has already been increased by around 51%. However, both the Framework's glossary (Annex 2)

¹ Although by my own reckoning the figure of 51% slightly understates the percentage increase, assuming the "original" and "existing" floorspace figures are accurate.

and the supporting text to Policy DM21 provide the same definition of "original", which is "the building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally". That the property has already been expanded beyond the 30% "limit" does not justify, in the context of national and local Green Belt policy, allowing further extensions.

10. It is not clear whether the appellant's comment that permission for the existing extensions was secured "under a different Development Plan at a different period in time" was inviting me to infer that a new development plan should have the effect of "restarting the clock" in terms of assessing whether or not additions to a building would be disproportionate, but in the light of the clear definition of "original building" in the Framework and the Local Plan it is not an argument I find persuasive.
11. Looking beyond the floorspace calculations, the proposed extension would occupy garden space at the side of the dwelling. The combined effect of the existing side extension and the further extension now proposed would be to more than double the width of the original building. By any reckoning, the proposal would therefore represent a substantial alteration to, and expansion of, the original form of the appeal property.
12. I consider that the proposed extension would represent a disproportionate addition over and above the original building. Consequently, it would not fall within the exception described in Paragraph 149(c) of the Framework, and would be inappropriate development in the Green Belt. By definition, it would be harmful to the Green Belt, and this is a matter to which I afford substantial weight in the planning balance as required by Paragraph 148 of the Framework. The development would also conflict with Policy STRAT9 of the Part One Plan, and Policy DM21 of the Part Two Plan, which seek to protect the Green Belt within Cheshire West and Chester in line with national policy.

Openness of the Green Belt

13. A fundamental aim of Green Belt policy, set out Paragraph 137 of the Framework, is to keep land permanently open; the essential characteristics of Green Belts are their openness and their permanence. In considering the effects of the proposed development, I have had regard to the *Timmins*² and *Turner*³ judgments to which the appellant referred. The baseline for considering the effect on openness, which is the absence of development and which has both a spatial and visual aspect, must be what currently exists at the site.
14. The proposed extension would increase the amount of built form on the appeal site, and would therefore reduce the spatial openness of the Green Belt. As I have described above, the extension would also increase the width of the appeal property. This additional built mass would be seen in public views from Peck Mill Lane in front of the appeal site. The visual impact would be somewhat limited as the extension would principally be seen alongside the existing dwelling and against the backdrop of outbuildings on the site. Nevertheless, there would also be some loss of visual openness of the Green Belt.
15. Given the size of the proposed extension in the context of the Green Belt as a whole, I consider that the development would cause moderate harm to the

² *Timmins v. Gedling BC* [2014] EWHC 654 (Admin)

³ *Turner v. SSCLG* [2016] EWCA (Civ 466)

openness of the Green Belt. Once again though, the Framework is clear that substantial weight should be given to any harm to the Green Belt.

Character and appearance

16. The Council's 2021 House Extensions and Domestic Outbuildings Supplementary Planning Document ("the SPD") advises that extensions will be supported where they are "sufficiently subordinate to the main dwelling", and that the appropriate design, scale and dimensions for an extension will be determined with regard to the original house.
17. The proposed extension would be similar in width to the original house (as I have described it in paragraph 6 above); it would also extend to almost the entire depth of the building. Even though it would only have a single storey, it would still be a relatively large addition to the property, and would not be subordinate to the original building; the effect of its width would be to visually unbalance the dwelling. The proposed broad gable at the western end of the extension would be wider than the two existing two-storey gables on the front elevation; this would also draw the eye and further emphasise the scale of the extension and the visual imbalance. While the proposed materials would be in keeping with the existing dwelling, this would not alleviate the other harm I have found.
18. I conclude that the proposed extension would, because of its scale and form, not be subordinate to, or in keeping with, the original dwelling. It would therefore be harmful to the character and appearance of the area. The development would therefore conflict with Policy ENV6 of the Part One Plan, and with Policies DM3 and DM21 of the Part Two Plan. Among other things, these policies seek to ensure that development, respects the scale, character and appearance of existing buildings, and that residential extensions are subordinate in size and appearance to the original dwelling.
19. The Council's decision notice indicated that it considered that the proposal also conflicted with Policy SOC3 of the Part One Plan. SOC3 addresses matters relating to providing a mix of housing types, and nowhere did the Council's evidence explain the nature of any conflict with that policy. Accordingly, I find no conflict with Policy SOC3, although this does not affect my conclusion either on this particular matter or on the appeal as a whole.

Other considerations

20. Both the Council and the appellant drew my attention to the possibility of other extensions being built under permitted development rights and Lawful Development Certificates ("LDCs") which have been granted. There are two extant LDCs for single-storey extensions, one for an extension at the rear of the building of 28.12m² (88.90m³ volume) was issued in 2019⁴, and another for an extension of 22.80m² (72.05m³ volume) at the side was issued in 2021⁵.
21. It was also put to me by the appellant that a larger rear extension could be created by the permitted development route, with an 8m long extension having an area of 96.06m² (192.13m³ volume); a further built volume of 71.83m² could be achieved by a two-storey rear extension. Taken together, the appellant considers that the maximum combined volume of extensions which

⁴ LPA Ref: 19/01386/LDC

⁵ LPA Ref: 21/00198/LDC

could be delivered on the basis of the extant LDCs and permitted development rights would be 352.86m³, compared to 163.75m³ for the appeal proposal.

22. The appellant therefore considers that the combination of the LDCs and permitted development rights represents a fallback position which would result in there being at least equal, if not greater, harm to the openness of the Green Belt than the appeal proposal. In assessing the implications of these alternative possibilities and their likely effects as a fallback position, I have had regard to established caselaw, including the *Mansell*⁶, *Samuel Smith*⁷ and *Zurich*⁸ judgments to which the appellant referred.
23. Over the last five years, several planning applications seeking to extend the dwelling have been submitted and refused permission or withdrawn. Given the appellant's obvious desire to extend the property, it appears to me that there is a very real prospect of some form of scheme (whether as allowed for by the two LDCs or otherwise using permitted development rights) being implemented in the event of my dismissing this appeal.
24. The side extension permitted by the 2021 LDC would be smaller than this appeal scheme in both area and volume, and so would be less harmful to the openness of the Green Belt (both visually and spatially). It is therefore a consideration to which I attach limited weight as a fallback position. It is also the only part of the alternatives which would be a *direct replacement* for this appeal scheme.
25. I acknowledge that the *totality* of the fallback schemes which could be built – whether based on the LDCs or other permitted development rights – would be larger, and more harmful to the openness of the Green Belt, than the appeal scheme. However, it is entirely possible that other elements could be carried out *as well as* the appeal scheme – for example, were I to allow the appeal and grant planning permission, there is nothing before me which would prevent permitted development rights being exercised before it was implemented. Accordingly, I consider that the fallback argument is, effectively, negated; to my mind it cannot therefore carry significant weight in favour of the appeal scheme.

Planning Balance and Conclusion

26. The proposal would be inappropriate development in the Green Belt, and would cause moderate harm to the openness of the Green Belt, conflicting with Policy STRAT9 of the Part One Plan and Policy DM21 of the Part Two Plan, which seek to protect the openness of the Green Belt. These are matters to which I attach substantial weight, as required by Paragraph 148 of the Framework. In addition, the extension would also be harmful to the character and appearance of the host building and surrounding area, and there would be further conflict with the development plan in this regard. I have considered and weighed the other considerations in the scheme's favour which have been put to me by the appellant, but for the reasons I have described above these carry only limited weight for the proposal.

⁶ *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314

⁷ *Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government* [2019] EWCA Civ 333

⁸ *R (on the application of Zurich Assurance Ltd) v North Lincolnshire* [2012] EWHC 3708

27. The substantial weight to be given to the Green Belt harm, and the other harm arising from the development identified above, is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector