



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: 20 September 2022

Appeal Ref: APP/A0665/D/21/3287008

Hunters Lodge, Cogshall Lane, Little Leigh, Northwich, Cheshire CW9 6BP

- 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 Catherine Fox against the decision of Cheshire West & Chester Council.
 - The application Ref 21/02212/FUL, dated 19 May 2021, was refused by notice dated 11 October 2021.
 - The development proposed is the construction of first floor rear extension and front porch.
-

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; 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 site comprises a two-storey detached house on the north side of Cogshall Lane, within the Green Belt. The "main" dwelling faces Cogshall Lane at the front of the site; to the rear a single-storey "link" extension connects it to a further two-storey annex. The proposed development is the erection of a first-floor extension above the existing link extension, connecting the two-storey parts of the building. A single-storey porch would also be added to its western side.

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. Both the Framework's glossary (Annex 2) 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". The appellant's evidence indicates that the main dwelling dates from 1935. Behind this, in the space now occupied by the two-storey annex, was a separate building which the appellant describes as an "ancillary outbuilding" comprising a two-storey "barn" with three-storey "cottage" annex¹. There is no information as to precisely when the rear building had been erected but it clearly pre-dated the main dwelling, and these two buildings were both therefore in place by, and on, 1 July 1948. There is no dispute between the main parties on this point.
7. There has subsequently been a considerable amount of further development on the appeal site. Most relevantly, the cottage part of the rear building was demolished at some point in the early 1970s², and the link extension (comprising a kitchen, laundry room and study) connecting the main dwelling and the barn building was erected following a grant of planning permission in January 1975³. During 2005 and 2006 a series of planning permissions allowed further enlargement of the link extension and the renovation⁴ (and ultimately the demolition and replacement⁵) of the rear barn building. Planning permission for a detached garage at the western edge of the site was granted in December 2004⁶, and permission for a conservatory approved by the 2005 and 2006

¹ Although the description of the cottage part as having three storeys is based on a photograph dating from the early 1970s showing a staircase leading to what could only have been a very restricted loft or attic space.

² The appellant's evidence also referred to this happening in the 1960s, although as a photograph dated March 1971 shows the "cottage" still in place my assumption is that the reference to the earlier date is an error.

³ LPA Ref: 4/00/00727

⁴ LPA Refs: 05-1173-FUL and 06-0182-FUL

⁵ LPA Ref: 06-1273-FUL

⁶ LPA Ref: 4/28899

- permissions modified in August 2008⁷. Together, these developments over the last half century have given Hunters Lodge and its grounds their current form.
8. While the Framework does not specify either in relative or absolute terms what might be a disproportionate addition to an original building, 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. The Council is of the view that the relevant “original building” is only the main dwelling, in its initial 1935 simple rectangular plan form. The appellant, on the other hand, considers that the main dwelling and the (since replaced) rear barn and cottage as they existed on 1 July 1948 should be taken together to be the original building.
 9. The question of what should be considered the extent of the “original building”, and the subsequent assessment as to whether the proposed extensions would cumulatively result in it having been disproportionately enlarged, is therefore at the heart of the dispute between the main parties in this case. However, although the appellant is keen to emphasise that the rear barn building was ancillary to (and therefore part of) the main dwelling in 1948, the evidence put forward in fact leaves significant doubt in my mind on this matter.
 10. A map dated January 1968 shows a group of buildings at the north west corner of the appeal site, including the rear barn and cottage building, a stable block, and at least one other separate building. It also shows the newer main house sitting within a discrete part of the site, as well as a second building – from its size and siting presumably a further new dwelling, although this appears not to have ever been built – on a subdivision of the site east of Hunters Lodge. Photographs taken in the early 1970s show the rear barn successively in something approaching its original – or at least its 1948 – state, then during and after the demolition of the cottage annex; a later photograph from 1999 or 2000 shows the site following the construction of the link block between the main house and the rear barn building.
 11. I acknowledge that the rear barn had *become* ancillary in use to the main dwelling prior to its demolition and replacement in the early part of the 21st century. However, to my mind the evidence suggests that this took place in the period around the early 1970s, when the photographs show the “cottage” being demolished, and new openings being created on the south elevation of the barn to facilitate its use as a garage. This appears to have taken place as part of what looks like a major reconfiguration of the site over that period. While the drawings submitted as part of the planning application show the garage door openings as being part of the “original dwelling and cottage barn”, the historic photographs demonstrate that this was not in fact the case.
 12. Before the changes in the early 1970s, the barn building seems to have been much more closely physically, and probably also functionally, related to the cluster of (presumably) agricultural buildings at the north west corner of the site. Notwithstanding the Council’s acknowledgement that it does not have any evidence that the rear building ever formed part of a separate planning unit, there is nothing which conclusively demonstrates that there was a functional relationship between the barn and the main dwelling at the key point in 1948. Instead, it appears more likely to me that this developed at a later date. For the purposes of determining this appeal, I therefore find the “original building”

⁷ LPA Ref: 08-1387-FUL

to be only the 1935 house and none of the other extensions or outbuildings on the site.

13. I entirely accept the appellant's point that the singular "building" can and should be read as the plural "buildings" where this is appropriate. In this respect, the observation of David Elvin KC (sitting as a Deputy High Court Judge) in the *Tandridge* judgment to which the appellant drew my attention⁸ that he did "not consider that 'building' should be read as excluding more than one building, providing as a matter of planning judgment they can sensibly be considered together" is instructional. In my experience it is also not a controversial proposition that in some circumstances an ancillary domestic outbuilding which is physically separated from the main dwelling can be regarded as part of the main dwelling, although again whether it should be or not is a matter of fact and degree in each case. While I am therefore sympathetic at least with the *principles* of the appellant's arguments on this point, for the reasons I have set out in the preceding paragraphs I disagree with the interpretation offered in this instance.
14. From the starting point of the 1935 house together with the rear barn and cottage being the original building, the appellant has calculated that the floorspace of Hunters Lodge has at present been enlarged by only 8.4%. The proposed extensions would increase this further to around 23.3%. However, and again for the reasons I have just set out, I favour the Council's assessment that only the 1935 house is the "original building" in this case. From that baseline, by the Council's calculation the existing extensions (the link, the annex which replaced the rear barn building, and other smaller additions) have already enlarged the floorspace of Hunters Lodge by around 93%. The current proposed extensions would increase this further to around 125%.
15. I note from the Council's officer report that, in assessing an earlier identical proposal ("the 2019 planning application")⁹, it calculated that the dwelling had only been extended by around 55%. The difference with its most recent figure can be explained by it not having included the rear barn in its 2019 calculation. As the rear barn would presumably have been replaced under an earlier version of provision currently set out in Paragraph 149(d) of the Framework which allows the replacement of a building (provided the new building is in the same use and not materially larger than the one it replaces), it may be considered appropriate to exclude that replacement floorspace from the calculations in this case. However, whether the starting point is a building 55% larger than originally built, or one 93% larger, it is obvious that any additional extension could only take it further beyond the 30% threshold described in the development plan. In any event therefore, the proposed extension and previous additions taken together would result in the floorspace of the original building having been extended by a very significant amount.
16. Looking beyond the floorspace calculations, the proposed extension would represent the creation of a substantial built volume at first floor level. The combined effect of the existing extensions and the further extension now proposed would be significantly increase the built mass of the dwelling. In my view, however it is approached, the proposed development would represent a substantial cumulative alteration to, and expansion of, the original form of the appeal property.

⁸ *Tandridge DC v SSCLG and Syrett* [2015] EWHC 2503 (Admin)

⁹ LPA Ref: 19/03905/FUL

17. I therefore 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

18. 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. 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.
19. While the built footprint on the ground would only be slightly enlarged (by the proposed porch), the proposed extension would increase the amount of built form on the appeal site, and the spatial openness of the Green Belt would be reduced. Visually, there would be a limited impact on public views because of the position of the extension at the rear of Hunters Lodge, although it could be seen (set against either the sky or a backdrop of mature trees, depending on the precise viewpoint) in some long views from Cogshall Lane to the north east of the appeal site. There would therefore also be some loss of visual openness of the Green Belt.
20. Given the size of the proposed extension in the context of the Green Belt as a whole, as well as the limited and localised nature of the visual and spatial impacts, I consider that the development would cause only moderate harm to the 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.

Other considerations

21. I saw on my site visit that there is a considerable variation in the scale and type of houses in the surrounding area. The Council had refused the 2019 planning application on the grounds of harm to the character and appearance of the area, but although an appeal was subsequently dismissed¹⁰ the Inspector concluded that the proposal would not be harmful in that respect. The Council did not refuse the scheme in the current appeal on the grounds of harm to character and appearance, and in any event none of the evidence before me leads me to take a different view from my colleague's earlier conclusion in this respect.
22. Similarly, there is nothing before me to suggest that the appeal scheme would be detrimental to living conditions for any neighbouring residents, nor that it would be harmful in any way to the safety of highway users. A lack of harm in respect of these other matters is a neutral factor which does not weigh in favour of the appeal proposal.

¹⁰ PINS ref: APP/A0665/D/20/3250597

23. The appellant drew my attention to an appeal decision in respect of Hope Lane Cottage, Adlington (within Cheshire East)¹¹. In that case, the local planning authority had calculated the building increase with respect to the “original buildings” from a 1987 base date (for which they had considerable certainty) rather than a 1948 date (for which there was some doubt about the form and use of the buildings on the site). The Inspector allowed that appeal, finding that “a reasonably firm assumption can be made about the size and form [of the original building in 1948]”, and that the use of a 1987 base date was not appropriate.
24. The Inspector in that case also observed that, although there was some doubt that a disputed two-storey outbuilding was used as part of the house in 1948, as it was joined to the main dwelling it was nonetheless part of the building as a whole. That is not the case in this appeal where having carefully considered the available evidence I have, for the reasons set out in paragraphs 8 to 13 above, on balance reached a different conclusion. While I have no reason to disagree with the conclusion my colleague reached in respect of Hope Lane Cottage, the circumstances of that case are different, and the decision in that appeal does not amount to a justification for permitting the proposed development which is before me.

Planning Balance and Conclusion

25. 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
26. I have considered and weighed the other considerations in the scheme’s favour which have been put to me by the appellant. However, for the reasons I have set out above, I consider that the substantial weight to be given to the Green Belt harm arising from the development 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

¹¹ PINS ref: APP/R0660/W/18/3208851