



Appeal Decision

Site visit made on 6 December 2022

by Sarah Manchester BSc MSc PhD MEnv

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/P2365/D/22/3304835

295 Liverpool Road, Rufford, Ormskirk, Lancashire, L40 1SE

- 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 Rice against the decision of West Lancashire Borough Council.
 - The application Ref 2021/1421/FUL, dated 3 December 2021, was refused by notice dated 18 May 2022.
 - The development proposed is erection of rear dormer.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. Mr and Mrs Rice are the applicants in the application form, but only Mrs Diane Rice is named in the appeal form. Therefore, the appeal is proceeding in the name of Mrs Rice.
3. The proposed development was started without consent in October 2018 but it has not been completed. Accordingly, notwithstanding what I saw during my visit, I have determined the appeal on the basis of the submitted plans.

Main Issues

4. The main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - ii) The effect of the proposal on the openness of the Green Belt; and
 - iii) If the proposal is inappropriate development, 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 it.

Reasons

Whether or not inappropriate development

5. No 295 is an extended detached 1.5 storey dwelling in a large plot. It is part of a cluster of buildings and dwellings set back from Liverpool Road and accessed via a shared private road. It is in the countryside and the Green Belt.

6. Policy GN1 of the West Lancashire Local Plan 2012-2027 Development Plan Document Adopted October 2013 (the LP) sets out that proposals in the Green Belt will be assessed against national policy and relevant Local Plan policies.
7. 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 special circumstances. Paragraph 149 states that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to exceptions including paragraph 149 c) 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.
8. Policy GB4 of the West Lancashire Borough Council Supplementary Planning Document Development in the Green Belt Adopted October 2015 (the GB SPD) sets out criteria for extensions to buildings in the Green Belt. These include that the extension should not result in an increase of more than 40% of the volume of the original building; and that it should be in keeping with the original form and appearance of the building, not materially harm the openness of the Green Belt through excessive scale or bulk, and it should be in keeping with the character of the area and appropriate in terms of design and materials. However, Framework paragraph 149 c) does not explicitly require an assessment of impacts on openness, and neither openness nor visual amenity are directly relevant to the question of inappropriateness.
9. The proposal would be a flat roof dormer extension spanning the width of the original part of the dwelling. The appellant states that the proposal would increase the volume of the dwelling by about 11%. However, for the purposes of the Framework, the original building is the building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally. Taking into account the previous extensions to the appeal property, the evidence indicates that the proposal would result in a cumulative increase in the volume of the original building of around 80%.
10. The original building was apparently a modest dwelling with a simple pitched roof. In contrast, the existing building with its side, rear and front dormer extensions is considerably wider and deeper and it has significantly greater internal floor space. While the dimensions of the original building have not been provided, taking into account the previous significant uplift in the scale and bulk of the building, the proposed extension would cumulatively result in disproportionate additions over and above the size of the original building.
11. Therefore, I conclude that the proposal would result in disproportionate additions over and above the size of the original building. As it would not meet the exception in Framework paragraph 149 c), it would be inappropriate development in the Green Belt. It would conflict with GB SPD Policy GB4, LP Policy GN1 and the policies in the Framework that protect the Green Belt.

Openness

12. Paragraph 133 of the Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
13. There would be an increase in the bulk of the roof to the rear of the dwelling but, in the context of the existing dwelling, the dormer would be relatively

modest. I note the Council's concerns that the proposal would challenge the vertical limits of the site. However, it would not increase the height of the dwelling nor would it be prominent, being unobtrusively sited to the rear of the property. By itself, the proposal would not be excessive in terms of its scale or its bulk and there would be no discernible adverse visual impact. As such, I find that there would be a negligible impact on the openness of the Green Belt.

Other considerations

14. The proposal would not harm the character and appearance of the appeal property or the area. Subject to overlooking windows being fitted with obscure glazing, there would be no loss of privacy to neighbouring residential occupiers. Compliance with the development plan in relation to these matters is a neutral factor. While the large size of the plot could accommodate additional built development, this does not weigh in favour of the proposal. The limited economic benefits in the short term during construction carry little positive weight. The additional internal living space and the private benefit to the appellant carries neutral weight.
15. In August 2018, planning permission (Ref 2018/0500/FUL) was granted for erection of a side extension and front dormers following the demolition of the existing rear extension. Condition No 4 of the permission restricts the use of permitted development (PD) rights under the Town and Country Planning (General Permitted Development) (England) Order 2015, including in relation to extensions and alterations, without the express written permission of the Local Planning Authority.
16. In October 2018, the Council determined that prior approval was not required for an application for determination as to whether prior approval detail is required – extension of dwellinghouse (Ref 2018/0967/PNH). I understand that the prior approval scheme included a single storey rear extension and a rear dormer. However, while preparatory works to the existing roof were carried out, the external works to construct the dormer were not carried out until after the planning permission was implemented and the PD rights were removed. Therefore, even if it would be in accordance with the prior approval details, the proposal is not PD. The fact that it, or other forms of PD, could have been lawfully constructed before the PD rights were removed does not weigh in favour of the proposal.
17. The appellant considers that condition No 4 of the planning permission fails the tests for conditions set out in the Framework in relation to being necessary and reasonable. She points out that various appeal decisions¹ have considered whether or not conditions removing PD rights in the Green Belt meet the tests for conditions and Inspectors have concluded that restrictions on PD rights in the Green Belt are not appropriate. However, the appeal does not relate to an application to remove condition No 4 and, as the appellant acknowledges, the question of whether or not the PD rights should be reinstated is not a matter for this appeal. Consequently, neither the theoretical exercise of PD rights nor appeals against planning conditions elsewhere weigh in favour of the scheme. Similarly, the lawful exercise of PD rights and development elsewhere in the Green Belt do not weigh in favour of the proposal, which must be considered on its own merits.

¹ Ref APP/G5180/A/00/1044187

Green Belt balance

18. I have concluded that the proposal would be inappropriate development in the Green Belt. While there would be negligible impacts on the openness of the Green Belt, the Framework is clear that inappropriate development is harmful to the Green Belt and substantial weight should be given to any Green Belt harm.
19. There are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness. Therefore, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

20. For the reasons set out above, the appeal should be dismissed.

Sarah Manchester

INSPECTOR