



Appeal Decisions

Site visit made on 20 April 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal A Ref: APP/M0655/W/22/3310817

Cuerdon Cottage, Cuerdon Drive, Grappenhall and Thelwall, Warrington WA4 3JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Steve Latif of Artisan Property Developments Ltd against the decision of Warrington Borough Council.
 - The application Ref 2022/41735, dated 13 June 2022, was refused by notice dated 20 October 2022.
 - The development proposed is described as 'Proposed retention of replacement conservatory with brick structure, retention of extension and change of use of domestic outbuilding to a single dwelling'.
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Appeal B Ref: APP/M0655/W/22/3310825

Cuerdon Cottage, Cuerdon Drive, Grappenhall and Thelwall, Warrington WA4 3JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Artisan Property Developments Ltd against the decision of Warrington Borough Council.
 - The application Ref 2022/41738, dated 13 June 2022, was refused by notice dated 20 October 2022.
 - The application sought planning permission for 'Proposed new residential property comprising of existing outbuilding and including the retention of extension to this (following the demolition of the conservatory) and removal of its curtilage building link-extension', without complying with a condition attached to planning permission Ref 2021/40621 dated 10 May 2022.
 - The condition in dispute is No 4 which states that: Within 3 calendar months of the date of this permission, the structure as identified in green on the submitted Location Plan Drawing No.P20146A-08 shall be removed completely from the site.
 - The reason given for the condition is: In order to ensure that the development remains appropriate development in Green Belt as failure to remove the building identified as green on Drawing No.P20146A-08 would result in inappropriate development in the Green Belt for which no very special circumstances have been submitted to outweigh the harm to openness by definition and to comply with LPCS Policy CS5 and the NPPF.
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Decisions

1. Appeal A and Appeal B are both dismissed.

Preliminary Matters

2. As set out above, there are two appeals on this site. The Council has granted planning permission for the use of the appeal building (an outbuilding to Cuerdon Cottage) as a separate residential dwelling¹. That permission included retention of an extension that replaced a demolished conservatory and removal of an extension formed by the enclosure of a walled garden (shown as Bedroom 4 on the proposed plans). Appeal A is for the same development, except that it seeks to retain the extension comprising Bedroom 4.
3. If Appeal A is dismissed, Appeal B seeks to lengthen the timeframe specified by the Council for removal of the extension comprising Bedroom 4, by varying the condition which secured its removal.
4. I have considered each proposal on its individual merits. Whilst related, both appeals raise different issues. To avoid duplication, I have dealt with the two appeals within the same decision, but I address them separately below.
5. The physical works comprising the development relating to Appeal A are complete. Nevertheless, I am determining the appeal based on the plans before me.
6. Despite a slightly amended description of development on the appeal form and decision notice, I am satisfied that the description used on the application form adequately describes the act of development and so I have used this in the above details.

Appeal A

Main Issues

7. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the NPPF) and any relevant development plan policies including, where appropriate, its effect on openness;
 - If the development is inappropriate, whether any 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 required to justify the proposal.

Reasons

Whether inappropriate development

8. Policy CS1 of the Warrington Borough Council Local Plan Core Strategy (LP), Adopted July 2014, requires regard to be had to the priority afforded to the protection of the Green Belt. LP Policy CS5 states that proposals within the Green Belt will be approved where they accord with relevant national policy. The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

¹ 2022/40621

9. Paragraph 149 of the NPPF establishes that the construction of new buildings should be regarded as inappropriate, except in specific circumstances. These exceptions include (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. Paragraph 150(d) of the NPPF indicates that the re-use of buildings of permanent and substantial construction is not inappropriate in the Green Belt, provided that such proposals preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
10. As noted above, use of the building as a separate dwelling, including an extension that replaced a demolished conservatory, already benefits from planning permission. There is no policy basis before me to suggest that a residential use would be inappropriate; and the information available suggests that the extension replacing the conservatory did not materially increase the size of the building. As such, in relation to Appeal A, I find these aspects of the appeal scheme to be acceptable.
11. Having regard to NPPF paragraph 149 (c), the main area of dispute between the parties relates to whether the extension comprising Bedroom 4 is a disproportionate addition. I have been provided with aerial photography dating from 2001, which indicates a modestly sized outbuilding on the appeal site at that time, along with photographs from the appellant showing a detached garage. By 2009, further aerial photography indicates a substantially larger building on site, whilst imagery from 2019 indicates a building of similar footprint to 2009, along with an addition to the southeast aspect of the building. I have also had regard to various documents provided by the appellant from 2005, indicating the intention to develop a detached leisure suite at that time.
12. Whilst the aerial photographs suggest that the apex of the roof of the building in 2009 was positioned further south than the building present in 2001, this in itself is not sufficient to conclude whether the building present in 2009 was a replacement of the earlier building, or a re-modelling and extension of it. However, even if it were a replacement building, no detailed drawings of the detached leisure suite are provided, showing its overall size as built. As such, I am unable to be conclusive as to whether the building as shown in the 2009 aerial photograph is as it was originally built.
13. However, even if I were to accept that there was a replacement building as shown on photography from 2009, the 2019 aerial photography demonstrates that additional works had been undertaken to the southeast elevation of the building. At my site visit, I observed a large, roofed canopy structure with timber supports extending from and fixed to the appeal building, providing a covered outdoor seating area.
14. The Council's House Extensions Supplementary Planning Document, June 2021 (SPD), states that any extensions and additions that result in an increase in size of over 33% of the original building will be considered disproportionate and therefore unacceptable, with the measurement based predominantly on floorspace and volume. It goes on to state that covered and enclosed curtilage structures such as pergolas, car ports and similar structures will all count towards floorspace and volume.
15. Whilst this canopy structure is open sided, it has a solid roof and it is substantial in size. It is an addition to the building that requires consideration

- under NPPF paragraph 149 (c). Whilst shown on the location plan, this structure is not included on the detailed floor plans or elevation drawings, and the appellant's suggested figure of a 12% increase in size resulting from the addition of Bedroom 4, does not appear to take account of this structure.
16. Neither party has provided volumetric figures, as required by the Council's SPD, albeit this is guidance only. The appellant states that the original brick structure and conservatory had a floorspace of 231.2m², albeit this differs marginally from the size of the 2009 building as suggested by the Council. The Council indicates that the addition of the canopy structure increased the floorspace by 53m², and this figure has not been disputed by the appellant. The combined floorspace of Bedroom 4 (28.15m²) and the canopy would be approximately 81.15m². This suggests that both the canopy and Bedroom 4 would represent a floorspace increase exceeding 33%. On the evidence before me, it would appear that this should be regarded as a disproportionate addition over and above the size of any replacement building. The proposal does not therefore benefit from the exception set out in paragraph 149(c) of the NPPF.
 17. Turning to NPPF paragraph 150 (d), I am advised that the extension comprising Bedroom 4 has involved the enclosure of a former walled garden. Whilst the plans before me indicate the footings of this walled area, the elevation drawings do not show the former height. Even so, the enclosure of a walled area to form a single storey building would have a spatial impact on the openness of the Green Belt, albeit small. The extension is flanked by the existing building to the rear and to the east, and so the visual impacts of Bedroom 4 on the openness of the Green Belt are limited. As the appeal building and surrounding land were previously in residential use, I do not consider that there would be any material increase in impact on the openness of the Green Belt arising from parking or other domestic paraphernalia.
 18. As such, whilst the spatial and visual impacts of the development on the openness of the Green Belt at this location are small, nevertheless, the development would not preserve the openness of the Green Belt at this location. Consequently, the proposal does not benefit from the exception set out in paragraph 150 (d) of the NPPF.
 19. Overall, the appeal scheme would not benefit from the exceptions set out in paragraphs 149 (c) or 150 (d) of the NPPF, and so, it would be inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt.

Other considerations

20. The proposal would re-use an existing building, to provide an additional dwelling. The Council does not presently have a 5-year land supply. I am not advised of the shortfall, however, given the scale of the development, I give this benefit only limited weight.
21. The development is capable of providing adequate car and cycle parking and bin storage and would not adversely impact on the living conditions of occupiers of neighbouring properties. These are neutral matters that do not carry any weight for or against the proposal.

Other Matters

22. The Council's case includes a scenario whereby the appeal scheme had not involved a change of use to a separate dwelling, providing a further assessment of the scale of the proposed additions over and above the size of Cuerdon Cottage. However, as the proposal does involve a change of use, I have not considered this scenario further.

Green Belt and Planning Balance

23. The appeal scheme subject of Appeal A is inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt. It would be contrary to one of the purposes of the Green Belt, which is to assist in safeguarding the countryside from encroachment, as set out at paragraph 138 of the NPPF. I give this harm substantial weight as required by NPPF paragraph 148.
24. I have considered the matters put before me in favour of the scheme. However, I conclude that these other considerations taken together do not clearly outweigh the substantial weight I have afforded to the Green Belt harm. Consequently, the very special circumstances necessary to justify the development do not exist. The development therefore conflicts with LP Policies CS1, CS5 and the requirements of the NPPF.
25. As the Council is not able to demonstrate a five-year land supply, NPPF Paragraph 11d is engaged. However, I have found that the application of policies in the NPPF that protect areas or assets of particular importance, provide a clear reason for refusing the development.

Conclusion

26. The proposal subject of Appeal A conflicts with the development plan when taken as a whole and there are no other material considerations worthy of sufficient weight, including the NPPF, to indicate that the decision should be made other than in accordance with it. The appeal is therefore dismissed.

Appeal B

Main Issue

27. Whether the condition is reasonable and necessary in requiring the removal of the extension comprising Bedroom 4 in the specified timescales, having regard to any effects on the Green Belt.

Reasons

28. With regards to Appeal A, I have concluded that the extension comprising Bedroom 4 would be a disproportionate addition and that the development would not preserve the openness of the Green Belt at this location. Consequently, it is inappropriate development in the Green Belt, conflicting with LP Policies CS1, CS5 and the requirements of the NPPF. As such, condition 4 of planning permission 2021/40621, which provides a mechanism to secure the removal of this extension as part of the change of use, remains reasonable and necessary, otherwise, the harm to the Green Belt, by reason of inappropriateness, could remain.

29. The appellant sought to extend the timeframe specified by condition 4 for removal of the Bedroom 4 extension, only on the basis that it would allow time for consideration of the planning application and any subsequent appeal relating to its retention. As I have now reached a decision on that appeal and no other reasoning is put forward for an extended time period, this justification has fallen away. Any further extension of the timeframe, without justification, would be unacceptable, as it would unnecessarily prolong the identified harm to the Green Belt, contrary to LP Policies CS1, CS5 and the requirements of the NPPF.

Conclusion

30. For the reasons given above, I conclude that Appeal B should also be dismissed.

S Brook

INSPECTOR