



Appeal Decision

Site visit made on 17 April 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2023

Appeal Ref: APP/A0665/D/22/3311372

1 Littlefold, Norley Road, Cuddington, Northwich, Cheshire CW8 2JN

- 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 Liz Halliday against the decision of Cheshire West and Chester Council.
 - The application Ref 22/00108/FUL, dated 12 January 2022, was refused by notice dated 22 August 2022.
 - The development proposed is the construction of a single storey timber clad contemporary garden building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is within the Sandiway Conservation Area (the CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the decision maker that special attention be paid to the desirability of preserving or enhancing the character or appearance of a CA. My consideration of the proposal reflects this duty.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2021 (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal upon the character and appearance of the area and the CA; and
 - 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 required to justify the proposal.

Reasons

4. The appeal site lies within the North Cheshire Green Belt. The appeal property is one of three brick dwellings converted from barns; it has a well-defined enclosed area of garden close to the main house. Beyond this is an extensive

amount of land associated with the appeal site. It comprises woodland, numerous shrubs and trees, a tennis court and open land. The irregular site boundary borders the rear of the garden associated with the adjoining dwelling. The appeal building would be sited between the enclosed garden area of the host dwelling and tennis court within the wider area of land.

5. Policy STRAT9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies, 2015 (the Local Plan Part 1) sets out Green Belt restrictions will apply to development in line with the Framework. Policy DM21 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies, 2019, (the Local Plan Part 2) sets out that the construction of ancillary outbuildings within the residential curtilage will be supported only if, taking into account any previous development it does not result in disproportionate additions.
6. The appellant has stated the policies, are not consistent with the Framework. Even if this were the case, Paragraph 149 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions.
7. The appellant contends that the proposal is an extension of the dwelling and claims support from the 149(c) exception. In doing so they cite the Warwick DC v SSLUHC & others (2022) High Court judgement. The case law has clarified that a domestic outbuilding could be regarded as part of the dwelling and, therefore, that an outbuilding could potentially be regarded as an extension to the dwelling. However, whether or not it is, is a matter of judgement.
8. The aforementioned Local Plan policies are supported by the Cheshire West & Chester Council Local Plan, Supplementary Planning Document: House Extensions and Domestic Outbuildings, 2021 (SPD). It advises that only outbuildings within 5 metres of the dwellinghouse will be treated as being 'extensions'. Notwithstanding the above case law postdates the SPD, it still provides an indication to aid the judgement as to whether the detached building could be regarded as an extension.
9. However, even without reliance on the SPD as a guide, the smaller garden area closest to the main house is mainly bounded by planting and fencing. It has formal garden characteristics like the adjacent neighbouring garden, such as lawn and flower/planting beds. This garden area is also in part delineated by a retaining wall with open steps leading down towards a gently sloping grassed area, which runs roughly parallel with the tennis court. This area has a more naturalistic character and contains large shrubs and trees. I noted that this area included domestic equipment, and the appellant's evidence illustrates it is used for residential purposes.
10. The appeal building would be sited in this more remote part of the appeal site between the formal garden area next to the main house and the tennis court, which itself is detached and distinctly separate within wider extensive grounds. The amount and height of shrubs, trees and the topography limit the intervisibility between the main house and the appeal building. Given the distance to the host dwelling, the siting of the building, and irregular site boundary, it would not be immediately clear if the building would be associated with No 1 Littlefold.

11. Whether or not this land should be regarded as the residential curtilage, the intervening extensive distance, vegetation, undulating land levels and siting would prevent the building having a clear visual or functional relationship with the main house. Furthermore, the scale and variance in materials proposed for the building in contrast to the traditional brick dwelling would further serve for it to be read as a separate entity. Therefore, my judgement is that the outbuilding could not reasonably be regarded as an extension to the original dwelling and is a separate building.
12. Consequently, the proposal would fail to accord with the exceptions set out in paragraphs 149 (c) of the Framework, and by consequence Policy STRAT9 of the Local Plan Part One. It is also contrary to Policy DM21 of the Cheshire Local Plan Part Two which requires compliance with STRAT9. It also conflicts with the Framework which seeks to safeguard the Green Belt from inappropriate development. The proposal would also conflict with the Council's SPD, which supports the above policies. It would therefore be inappropriate development in the Green Belt and substantial weight given to any harm.

Openness

13. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and permanence. It has been established that openness has both a spatial and visual aspect.
14. The appeal building has a floorspace of 33sq.m and measures 2.5m in height at its highest. It would replace an existing timber summerhouse. The appellant's calculation is that the floor area of the proposed building is 33 m² and the footprint of the original dwelling would increase by a policy compliant 25.5%. Although this figure is disputed in the officer report, from a visual perspective due to the surrounding screening it would not be visually prominent from surrounding properties. The wider appeal site would be surrounded by existing landscaping that would also likely screen it from public views. Although it would be set against a backdrop of trees and shrubs it would be clearly visible within and across the site.
15. From a spatial perspective, the proposal would inevitably lead to a reduction in the openness of the Green Belt by introducing additional built elements at the site, particularly in comparison to the existing timber summerhouse. It would be a relatively large individual building and would therefore result in an erosion of the openness in the immediate area. Overall, the proposed development would result in a limited effect upon openness.
16. Given the effect upon the openness of the Green Belt, I do not consider the development to be limited infilling or the partial or complete redevelopment of previously developed land under paragraph 149 (g). The development would have a greater impact on the openness of the Green Belt than the existing timber summerhouse, where the proposed development would be located.
17. I conclude that the appeal proposal would result in a moderate loss of openness thereby causing limited harm to the Green Belt. Consequently, the proposal conflicts with STRAT9 which applies national planning policy to proposals in the green belt. It would therefore be contrary to the objectives of the Framework.

Character and appearance of the CA

18. The significance of the CA appears to be derived from the architectural quality of residential buildings, which predominantly line Norley Road within a spacious setting. The appeal property and site contribute due to the character of the building and space and separation associated with the land surrounding the appeal site, which separates it from the A556 dual carriageway.
19. Whilst the built form would increase, due to the separation it would not affect the host dwelling or surrounding properties. Public visibility of the garden building would be limited and therefore it would have negligible effect on the character and appearance of the area and the CA.
20. Notwithstanding my assessment in terms of openness, I concur with the Council that the proposal would preserve the character and appearance of the CA and it would not have an unacceptable effect upon the character and appearance of the area. Thus, the proposal would accord with Policy DM46 of the Local Plan Part two, and the provisions within Chapter 12 and 16 of the Framework, which relate to achieving well designed places and heritage assets.

Other considerations

21. The Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
22. As I have found that it would be a building and not an extension or alteration to a building, it is therefore not necessary for me to consider whether the proposal would result in disproportionate additions over and above the size of the original building.
23. Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) allows for the erection of an outbuilding, provided it fulfils certain size and locational requirements, particularly in relation to the principal and side elevation of the dwelling. Notwithstanding the reason for the removal or permitted development rights and the dispute between the parties as to whether the proposed outbuilding would be within the curtilage of the dwelling, I have not been provided with any clearly defined assessment or evidence against all the parameters within Class E. I therefore give this matter limited weight.
24. I appreciate that the proposal has been amended. The proposal would enhance and increase the functionality and floor space of the dwelling. Undoubtedly it would be of benefit to the appellant, their wellbeing and their family life and would allow better observation of the family within the garden. However, I am not convinced that the proposed level of accommodation could only be provided within this particular location, and there is no evidence before me that it would be less harmful in another location. I note the appellant has stated that the Council have made it clear, that the application would be acceptable should the proposed building be located within 5m of the existing dwelling. Whilst I am sympathetic to the appellant's circumstances these are largely private matters, which I can only attribute limited weight to these considerations.

25. Reference is made to a number of development proposals that have been granted planning permission by the Council and also planning appeal decisions. However, I do not have full details of any of the examples which have been referred to. In any event, I determined the appeal on its own individual planning merits based on the evidence before me, and as such these examples are not afforded weight.
26. The Council does not raise an objection in respect of the effect upon the living conditions of neighbouring occupiers, upon access and parking, or the character and appearance of the dwelling, surrounding properties, and the wider setting and CA. The effect on trees did not form a reason for refusal. Based upon the evidence before me, I see no reason to disagree. However, compliance in these respects are neutral matters in the balance.

Planning Balance and Conclusion

27. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause limited harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 148 of the Framework.
28. Against this, the other considerations that have been advanced and cited in support of the proposal, are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. Whilst I have had regard to the policies in the Framework that I have been referred to, these do not lead me to a different decision.
29. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
30. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K Williams

INSPECTOR