



Appeal Decision

Site visit made on 13 July 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Appeal Ref: APP/R0660/W/22/3312486

Greenfields, Agden Park Lane, Lymm, Warrington WA13 0TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Obyda Essam against Cheshire East Council.
 - The application Ref 21/4444M, is dated 19 August 2021.
 - The development proposed is described as 'Minor amendments to the proposals approved in application 20/5184M, including relocation of bedroom accommodation into a two-storey rear/side extension, the addition of a balcony, creation of garage accommodation and repositioning of utility room. Elevational amendments including changes to roof and porch configuration and amendments/addition/removal of roof windows, windows and doors'.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Mr Obyda Essam against Cheshire East Council. This application is the subject of a separate decision.

Preliminary Matters

3. This appeal stems from the Council's failure to determine the planning application within the prescribed time. During the appeal the Council provided copies of policies from the Cheshire East Local Plan Strategy 2010- 2030 (July 2017) (the CELPS) and the Site Allocations and Development Policies Document (December 2022) (the SADPD) which it considers as being relevant to the determination of the appeal, along with a Statement of Case which indicates its concerns with the proposal. Whilst I have not been provided with putative reasons for refusal, I have derived the main issues based on the information before me.
4. Within its Statement of Case, the appellant has referred to policies in the Macclesfield Borough Local Plan, however at the time the appeal was made valid it had been replaced by the SADPD and thus no longer forms part of the adopted development plan for the area.

Main Issues

5. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt;

- The effect of the proposal on the openness of the Green Belt; and
- If found to be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations and if so, whether this amounts to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. The appeal property is a two storey, detached dwellinghouse located within the Green Belt. Policy PG3 of the CELPS states that within the Green Belt, planning permission will not be granted for inappropriate development, except in very special circumstances, in accordance with national policy.
7. This policy, along with the National Planning Policy Framework (the Framework) makes it clear that the construction of new buildings should be regarded as inappropriate development in the Green Belt subject to a number of exceptions. One such exception, at paragraph 149 c) of the Framework and 3.iii. of CELPS Policy PG3, 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.
8. The Framework does not define what a disproportionate addition means, however Policy RUR11 of the SADPD sets out that proposals will usually be considered to represent disproportionate additions where they increase the size of the original building by more than 30% in the Green Belt. Whilst the policy states 'usually', the 30% figure is nevertheless a helpful guide and I also note that the policy further confirms that matters including height, bulk, form, siting and design will be taken into account. Matters such as site features and the surrounding context are not of relevance when assessing whether a proposal constitutes a disproportionate addition to the original building.
9. The main parties appear to be in agreement that the proposal would increase the floorspace of the original dwelling by 97%. This is clearly well above the recommended 30%. The additional floorspace, footprint, volume, and overall bulk and massing would demonstrably increase the size of the original dwelling.
10. Taken on its own, I note that the additional floorspace sought by this proposal would increase the floorspace of the property by a modest amount above the previous approval¹. It would also be of limited mass in its own right. Nevertheless, it is important that I consider the development as a whole and its relationship with the original dwelling. There is no doubt in my mind that it would result in the original dwelling being extensively extended and substantially above 30%.
11. Accordingly, the proposal would result in a disproportionate addition over and above the size of the original building and thus conflicts with the policies of the CELPS and the SADPD, along with the Framework, as noted above.

Openness

12. Paragraph 137 of the Framework states that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the

¹ Council ref: 20/5184M

essential characteristics of Green Belts are their openness and their permanence. When applying the concept of openness to the particular facts of a case, a number of factors are capable of being relevant. For the purposes of this appeal, I have considered both the visual and spatial aspects of openness.

13. The proposal would considerably increase the floorspace, footprint and volume of the original dwelling. Despite the vast expanse of open countryside to the rear of the appeal site, its bulkier presence would however be read in context with the existing property, and it would not be overly prominent in visual terms.
14. Spatially, parts of the proposed extension would introduce built form over an area which was previously undeveloped, prior to the partial implementation of previous approvals. As noted before, the appeal proposal is a full resubmission for planning permission of various alterations and amendments to the original dwelling, rather than solely the additional first floor alterations to the previous approval. It is therefore important that I consider the proposed development as a whole. As such, the proposal clearly increases the overall bulk of development present within the site.
15. Given the scale of the development and the limited views which may be obtained of the proposal, it would result in a moderate loss of openness of this part of the Green Belt.

Other considerations

16. As alluded to, the appeal proposal is largely a resubmission of the previous approval however it sees the introduction of a first floor extension, along with other alterations including a reconfigured layout and a balcony. The Council considered the previous approval to be inappropriate development in the Green Belt, however it found that very special circumstances existed which justified it. The other consideration which amounted to the very special circumstances required was namely the fallback which existed through development permitted under a lawful development certificate (the LDC)². The Council found it to be of greater floorspace than the proposal and likely to be implemented.
17. This LDC fallback has been presented as a consideration in this appeal. The appellant suggests that the development granted under the LDC would result in far greater harm to the Green Belt than the appeal proposal. The nature of this purported harm has not been clarified.
18. As noted, this appeal results in greater floorspace than the previous approval. In this circumstance, the LDC now represents a smaller development in terms of floorspace than the appeal proposal. The LDC is also confined to single storey extensions and thus presents a very different internal configuration of living space than the appeal proposal.
19. Additionally, at the time of my site visit the original dwelling had undergone various alterations and extensions. These appear to be largely in accordance with the previous approval however not all elements are present. Nonetheless, based on all of these circumstances, I am not convinced that there is a real prospect of the LDC being implemented. This therefore considerably reduces the weight I afford to it as a fallback.

² 20/1907M

20. I also note that the LDC includes a detached outbuilding. Notwithstanding my comments above, there is nothing before me to suggest that this part of the LDC could not be implemented in the future. If this were to occur and this appeal were to be allowed, it would collectively result in a demonstrable increase in the size of the original dwellinghouse.
21. The appellant has suggested that the exploration of further permitted development rights may provide greater living accommodation than the additional floorspace which the appeal proposal seeks. However, the extent of any permitted development rights which could be utilised has not been clearly defined thus I cannot accurately determine that any such extensions would be of greater harm than the appeal proposal. There are also no guarantees that an approval of a larger home extension granted under the prior approval procedure would be forthcoming.
22. It is suggested that the appeal proposal removes the need for a detached garage to be constructed, which would have its own implications on the Green Belt. Be that as it may, I am not aware of any application for a garage having been submitted or indeed approved and, moreover, any proposal would be determined on its own merits and subject to similar Green Belt considerations. I therefore afford this matter limited weight.
23. The Council has raised no concerns with the design of the proposal, and I agree with this stance. Even if the proposed development is sympathetically designed having regard to the host dwelling and the surrounding area and may not be readily apparent from the public realm, this is a neutral matter which does not add any positive weight in favour of the proposal.

Whether very special circumstances exist

24. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
25. The proposal would constitute inappropriate development in the Green Belt and would cause moderate harm to its openness. In accordance with the Framework, I afford this Green Belt harm substantial weight. The other considerations advanced in support of the appeal carry no more than limited weight and thus do not clearly outweigh the harm I have identified.
26. Consequently, the very special circumstances necessary to justify the proposal do not exist thus it would fail to accord with the Green Belt aims set out in Policy PG3 of the CELPS, Policy RUR11 of SADPD and the Framework.

Conclusion

27. The proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR