



Appeal Decision

Site visit made on 9 April 2024

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 30th May 2024

Appeal Ref: APP/A0665/D/23/3334333

Heath Hey Puddington Lane, Puddington, Chester CH64 5SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs N Edwards against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/03037/FUL.
 - The development proposed is construction of two-storey front and first floor side extensions, single-storey rear extension with first floor balcony area, render to rear and side elevations and portico to main entrance.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 20 December 2023, after the planning application was determined and the appeal was made. It is a material consideration in the determination of the appeal. However, while the paragraph numbers have changed, the policies in the Framework that are relevant to the main issue in the appeal remain the same. Therefore, I am satisfied that the interests of the main parties would not be prejudiced by the changes.
3. The development is described in the application form as construction of single-storey rear, two-storey front and first floor side extensions. However, the appeal form indicates that the description of the development has changed. Therefore, I have adopted the description in the banner heading above from the appeal form.

Main Issues

4. The main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt, having regard to 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. Heath Hey is a substantial detached dwelling set back from Puddington Lane in a large plot. It is in a sparsely developed rural area characterised by scattered dwellings and farmsteads, boundary hedgerows, scattered trees and areas of woodland. It is in the open countryside and the Green Belt.
6. Paragraph 152 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.
7. Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies Adopted January 2015 (the LP) seeks to protect the countryside and it sets out that the Green Belt will be protected in accordance with the Framework. In this regard, Framework paragraph 154 advises that new buildings should be regarded as inappropriate in the Green Belt with limited exceptions including paragraph 154c) 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 proposal would result in around a 30% increase in the floorspace of the property. However, the dwelling has previously been significantly extended including a 2-storey extension to the side and rear, a rear conservatory and a double garage. The appellants have not provided comparative dimensions for the original, the existing or the proposed dwelling. Nevertheless, there is no dispute that, taking into account the previous extensions, the proposal would be disproportionate additions over and above the size of the original building.
9. Therefore, I conclude that the proposal would not meet the exception in Framework paragraph 154c). It would be inappropriate development in the Green Belt in conflict with LP policy STRAT9 and the policies in the Framework that protect the Green Belt.

Openness

10. Paragraph 142 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.
11. The proposal would result in a marked increase in the footprint and the bulk of the building. The plans suggest there would also be an increase in the extent of hardstanding around the building. Taking into account the size and design of the proposal, there would be a spatial loss of openness of the Green Belt.
12. The dwelling is set back from the road and screened from it by vegetation. However, vegetation is temporary and it cannot be relied upon to screen inappropriate development from view, including during times of the year when trees are not in leaf and overnight. Moreover, although widely separated from Park House Farm to the south and otherwise surrounded by open countryside, the proposal would be visible from surrounding land. By virtue of its size and design, including its first floor terrace, the proposal would be conspicuous and it would have a greater degree of prominence than the existing dwelling. There would be an adverse visual impact on openness.

13. Therefore, I find that the proposal would result in a modest spatial and visual loss of openness of the Green Belt.

Other Considerations

14. Several potential fallback positions have been presented to demonstrate how the dwelling could be extended without planning permission if the appeal should fail. The appellants consider that extensions constructed using permitted development (PD) rights would have similar or worse effects than the appeal proposal on the openness of the Green Belt.
15. The fallback position presented with the planning application (FB1) comprised 3 extensions, these being a single storey rear extension and 2 single storey side extensions. However, one of the side extensions would adjoin a previous extension rather than the original dwelling and the parties agree it would not be permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015. The remaining extensions would apparently result in a slightly greater increase in floorspace than the proposal. However, they would not be directly comparable to it including in terms of its increased first floor bulk, conspicuous roof terrace and alterations to the principal elevation. FB1 would result in a smaller spatial and visual loss of openness of the Green Belt than the proposal.
16. Planning permission (Ref: 19/02337/FUL) was granted in April 2020 for a nearly identical scheme to the appeal proposal. The Council considers that the permission was not implemented and it lapsed in April 2023. The appellants suggest that the removal of render from the dwelling could be construed as the commencement of development. Nevertheless, they have submitted a new planning application rather than rely on the earlier permission and there is little substantive evidence that the permission is not lapsed.
17. The lapsed scheme was inappropriate development, but it was granted on the basis that the limited visual impact and the fallback position at that time constituted very special circumstances. The details of the previous fallback were not submitted with the planning application subject of the appeal. However, I have been presented with an amended fallback scheme¹ (FB2) which the appellants consider to be the previously accepted fallback. This comprises a single storey side extension to the original dwelling and a 3m deep, 2-storey extension to the rear. The outlines of FB2 and the existing dwelling have been superimposed on plans of the appeal scheme, enabling a crude comparison of the spatial dimensions of each.
18. The FB2 side extension would increase the ground floor width of the dwelling. However, viewed from the front, the proposal would increase the bulk of the building at first floor and roof level which, together with the large gables, imposing porch feature and extent of glazing to the front elevation, would be more conspicuous than the subservient FB2 side extension.
19. From the side, the FB2 rear extension would be the same height as the host dwelling, which is taller than the existing 2-storey extension or the proposal. However, the proposal would increase the height of the 2-storey extension, and the roof extensions and the 2-storey front extension would contribute to a noticeable increase in the size of the roof and the dwelling.

¹ Plan Refs: PL-010 Rev D and PL-011 Rev D

20. The FB2 2-storey rear extension would span the width of the original building and its roof gables would meet the ridge of the host dwelling. There would be a marked increase in the rear bulk of the building. Even so, by virtue of its first floor and roof extensions and its roof terrace with associated recreational activity, the rear of the proposal would itself result in a marked increase in the first floor bulk of the building and it would have greater visual impact than the compact FB2 rear extension in views afforded of the rear.
21. FB2 would result in a smaller increase in floorspace than the proposal. Taking into account the cumulative effect of the proposed alterations and extensions, the proposal would result in a greater spatial and visual loss of openness of the Green Belt than FB2.
22. On the basis of the planning history and the appellants' desire for a larger dwelling, I have no reason to think that PD rights would not be exercised if the appeal should fail. However, neither FB1 or FB2 would result in similar or greater harm than the proposal so as to provide a justification for it. Therefore, neither carry more than limited weight in favour of the scheme.
23. In refusing the application subject of the appeal, the Council did consider the lapsed permission. However, it concluded that there have been recent changes in local policy and case law such that it does not constitute very special circumstances to outweigh the harm. The Council refers in particular to the guidance relating to fallback positions in the Supplementary Planning Document House Extensions and Domestic Outbuildings Adopted January 2021, but it does not clearly set out the implications of this for the appeal proposal.
24. However, while the lapsed permission and the proposal may be identical, the FB2 plans appear to differ from the fallback described in the Council's officer report for the lapsed scheme. In this regard, the Council refers to a PD side extension that would replace the garage and it notes the proposed rear extension is of a size that could be erected under PD rights if the terrace was omitted. However, the parties agree that an extension replacing the garage would not be PD. Therefore, I cannot be certain that there is a real prospect that the previously accepted fallback position could be constructed or that it would be similarly or more harmful than the proposal.
25. I acknowledge the importance of consistency in decision making. Moreover, I am not aware that there have been material changes in planning policy since the lapsed permission was granted. Nevertheless, there is little evidence that the previous fallback position would be PD or that the previous very special circumstances should apply in this case. Accordingly, the lapsed permission and the appellants' concerns in relation to consistency in decision making carry little weight in favour of the proposal.
26. The Council refers to biodiversity reports that were previously submitted with a withdrawn planning application (Ref: 22/03852/FUL). It also notes that the Council's Biodiversity Officer concluded that the proposal would be acceptable subject to the imposition of planning conditions to secure an Ecological Enhancement Plan, scheme of Reasonable Avoidance Measures for Great Crested Newts and bats, details of external lighting, and bat and bird boxes. In the absence of the biodiversity reports and consultee response, I cannot be satisfied on these points. Irrespective, compliance with planning policy in relation to biodiversity or indeed other matters would be a neutral factor.

Green belt balance

27. I have concluded that the appeal scheme would be inappropriate development in the Green Belt. It would conflict with LP policy STRAT9 and the policies in the Framework that protect the Green Belt. It would result in a modest and harmful loss of openness of the Green Belt. These matters attract substantial weight.
28. There are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness. Therefore, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

29. For the reasons set out above, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR