



Appeal Decisions

Site visit made on 7 May 2024

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 June 2024

Appeal A Ref: APP/R0660/W/24/3337105

9 Lees Lane, Newton, Cheshire East SK10 4LJ

- 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 D Knox against the decision of Cheshire East Council.
- The application Ref is 23/2433M.
- The development proposed is the addition of a glazed link and amendments to as built window positions to include the addition of a 1.9m high masonry wall to the front of the property.

Summary of Decision: The appeal is dismissed.

Appeal B Ref: APP/R0660/C/23/3331509

9 Lees Lane, Newton, SK10 4LJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Daniel Knox against an enforcement notice issued by Cheshire East Council.
- The notice was issued on 28 September 2023.
- The breach of planning control as alleged in the notice is without planning permission the erection of a boundary wall, electric gates and pillars and the erection of a glazed link between the dwelling house and a single storey outbuilding.
- The requirements of the notice are to:
 - a) Remove the boundary wall, electric gates and pillars shown in the approximate position edged green on the attached plan marked "Plan B", in their entirety.Or,
 - b) Reduce the height of the boundary wall, electric gates and pillars shown in the approximate position edged green on the attached plan marked "Plan B", to a height no greater than 1 metre.and,
 - c) Remove the glazed link shown in the approximate position marked in pink on the attached plan marked "Plan B" in its entirety.and,
 - d) Remove from the land all resultant material and debris following compliance with a), b) and c) above.
- The periods for compliance with the requirements are 5 months in respect of a), b) and c) and 6 months in respect of d).
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Appeal A

Preliminary Matter

1. The drawings submitted with the application differ to what has been constructed on site. These discrepancies include different window and door

arrangements; the garage depicted on the drawings is in fact used as living space; and, different glazing details on the glazed link. For the avoidance of doubt, I have considered the appeal based on what is in the submitted drawings, not what has been constructed.

Main Issues

2. The main issues are as follows:

- Whether the development would be inappropriate development in the Green Belt;
- The effect of the development on the openness of the Green Belt;
- The effect of the development on the character and appearance of the host dwelling and the area; and
- If the development is inappropriate, 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 the development.

Inappropriateness

3. The appeal site is located within the Green Belt. Policy PG3 of the Cheshire East Local Plan Strategy 2017 (the CELPS) states the construction of new buildings in the Green Belt is inappropriate. Exceptions to this include 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. This reiterates the National Planning Policy Framework (the Framework).
4. Policy RUR11 of the Cheshire East Local Plan Site Allocations and Development Policies Document 2022 (SADPD) states that when considering whether a proposal represents disproportionate additions, matters including height, bulk, form, siting and design will be taken into account, with particular attention given to increases in the overall building height. It goes on to state 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. Exceptions to this may be acceptable where the proposal is within a village infill boundary; provides additional floorspace with no significant alterations to the building's envelope or external appearance; is required for basic amenities or sanitation; or, is for a small scale domestic outbuilding in a residential curtilage. There is no argument made that any of these exceptions are applicable to this appeal and I find no reason to conclude that they are.
5. Policy RUR11 defines the 'original building' as the building and outbuildings/structures as it was originally built, or as it existed on 1 July 1948 if constructed before this date.
6. The appeal property is a two-storey, semi-detached dwelling. It has an extensive planning history including numerous alterations and additions. The Council confirm that the original dwelling in 1920 had a ground floor area of approximately 40 sqm. In a planning application submitted in 2015 for the change of use of the building from A3 Restaurants and Cafes and B1 Business (Offices) into C3 Dwelling houses¹, the plans accompanying the application

¹ Council ref: 15/0917M

showed the dwelling to have a floor area of approximately 107sqm. The drawings submitted with the application the subject of this appeal indicate the floor area of the dwelling to now be approximately 213sqm. The appellant does not dispute these figures.

7. The Council's calculations indicate the dwelling has had an increase in its floor area of approximately 258% from the original dwelling. However, this appears to be based on the dwelling as it was in 1920, not 1 July 1948. Nevertheless, even when considered against the 2015 planning application drawings, the floor area has significantly increased, far exceeding the 30% threshold as set out in Policy RUR11. Consequently, when read in conjunction with all of the other previous additions, the glazed link represents disproportionate additions to the original dwelling and is therefore inappropriate development in the Green Belt.
8. I acknowledge the glazed link is relatively small and, read in isolation, is not disproportionate to the original building. However, for the purposes of Policy PG3 of the CELPS, Policy RUR11 of the SADPD and the Framework it must be read in the context of the cumulative additions made to the original dwelling, not in isolation.
9. With regard to the boundary wall and gates, Policy PG3 nor the Framework state that walls are inappropriate development in the Green Belt. I find no reason to conclude otherwise.
10. I find therefore, the glazed link is inappropriate development, which, by its very definition, is harmful to the Green Belt and should not be approved except in very special circumstances.² In accordance with paragraph 153 of the Framework substantial weight must be given to this harm. By reason that the glazed link represents a disproportionate addition to the dwelling, it conflicts with Policy RUR11 of the SADPD.

Openness

11. Paragraph 142 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.
12. The glazed link comprises expansive areas of clear glazing, and its flat roof provides it with a low profile. Its design enables clear views through it and its small size, nestled between the significantly larger garage building and the dwelling, is not prominent. Nevertheless, the link eliminates what would otherwise be a gap between the dwelling and the garage, a gap that would have ensured the two were clearly visually separate. The consolidation of the two buildings into one by the introduction of the link creates a much larger single building spanning a significant width of the plot, rather than having two smaller buildings. As a consequence, the resultant building appears more visually intrusive.
13. In addition, the erosion of three-dimensional space arising from the construction of the glazed link results in an erosion of openness. The solid

² Paragraph 152 of the Framework

construction of the glazed link introduces built form where there was previously none and as a consequence reduces the openness of the Green Belt.

14. Overall, the link would diminish the openness of the Green Belt. I attribute moderate weight to the effect it would have on openness. I conclude therefore that the development would unacceptably harm the openness of the Green Belt.
15. With regard to the boundary wall and gates, given that these are not inappropriate development in the Green Belt, I need not go on to consider the effect they have on the openness of the Green Belt.

Character and Appearance

16. Lees Lane is a semi-rural lane with a wide range of properties, in terms of size, design and uses lining either side of it. The overall variety of buildings and uses and their relationship with the road make a positive contribution to the organic, sporadic character of the area. Boundary treatments with the road frontage typically comprise soft landscaping, low fencing or open frontages, which provides a spacious and open character to the area.
17. The boundary wall and gates extend across the entire frontage of the appeal site. Due to their significant height and length, they substantially restrict intervisibility between the site and the lane, creating an undue sense of enclosure that is in marked contrast to the openness of other property frontages within the vicinity. This is exacerbated by the expanse of brickwork and solid gates that contrast with the predominantly natural boundary treatments.
18. I acknowledge that hedging has been planted to the front of the wall. However, due to its significant height and length, it would take a substantial amount time to adequately screen the wall and, even then, the resultant height of the hedge would still unduly restrict intervisibility and diminish the openness of the area.
19. As I have set out in my consideration of the effect on the openness of the Green Belt, the glazed link would not be visually intrusive. Nevertheless, read in the context of the other additions to the original dwelling, it represents a disproportionate addition.
20. Moreover, the main dwelling has a simplistic, traditional design. The garage building, although large in size, respects this and the gap that would otherwise exist between the two ensures the vertical emphasis of the dwelling is retained. The glazed link eliminates this gap, consolidating the two buildings into one thus creating a very linear form of development that unacceptably conflicts with the vertical emphasis of the dwelling and its traditional, simple design. The width of the garage, the glazed link and the existing two-storey side extension on the dwelling would far exceed the width of the original dwelling. As a consequence, the dwelling would appear subordinate to the additions instead of the other way around.
21. I find therefore, the glazed link and the boundary wall and gates unacceptably harm the character and appearance of the host dwelling and the area. As such, they conflict with Policies MP1, SD1, SD2, SE1 and SE4 of the CELPS and Policies GEN1, RUR11, ENV3, ENV5 and HOU11 of the SADPD, which, amongst other things, seek to promote sustainable development; and, ensure

extensions and alterations are in keeping with the scale, character and appearance of the surroundings and the local area and subordinate to the existing dwelling.

22. In its reasons for refusal, the Council states the development conflicts with the Cheshire East Borough Design Guide Supplementary Planning Document 2017 (the SPD). However, I have not been directed to any relevant guidance within the SPD whereby such conflict would arise. Accordingly, I find no conflict with the SPD.

Other Considerations

23. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt and that 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. I turn now to address other considerations that, potentially, might clearly outweigh harm arising from the inappropriate development in the Green Belt, the erosion of openness and the harm to the character and appearance of the host dwelling and the area so as to provide the very special circumstances required to justify a grant of planning permission.
24. The appellant argues there are examples of similar boundary walls in the area. However, the road referred to in Alderley Edge is a considerable distance from the appeal site and is therefore not read in the same context. Accordingly, I attribute this matter very limited weight.
25. The boundary wall and gates are set behind a narrow grass verge. However, due to its proximity to the road, for the purposes of the Town and Country Planning (General Permitted Development) (England) Order 2015, it is considered to be adjacent to the highway. By reason that it exceeds 1m in height, it is not permitted development. Whilst the gates are set further back from the road, they form part of the same single development as the wall. If one part of the single development is not permitted development, in this case the wall, none of it is.
26. The wall and gates provide security for the occupants of the dwelling. However, no evidence is before me justifying why other means of securing the site that would not be harmful to the character and appearance of the area are not suitable. Accordingly, I attribute this matter very limited weight.
27. I acknowledge the development was carried out by previous owners. However, this has no bearing on my consideration of the planning merits of the appeal.
28. The appellant indicates they would accept a reduction in the height of the wall and gates. However, I have not been presented with an alternative scheme detailing how much they would reduce them. Therefore, this has had no bearing on my consideration of the appeal before me.

Summary

29. The glazed link has harmful implications for the Green Belt in terms of inappropriate development and the erosion of the openness of the Green Belt. In accordance with national policy, such harm carries substantial weight. Furthermore, it significantly harms the character and appearance of the host dwelling and the area. I have not been presented with any evidence of there

being considerations that would amount to very special circumstances. Therefore, the very special circumstances necessary to outweigh the harm to the Green Belt have not been demonstrated. As such, the proposal fails to comply with Policy PG3 of the CELPS and the Framework.

30. Whilst the boundary wall and gates are not inappropriate development in the Green Belt, they nevertheless unacceptably harm the character and appearance of the host dwelling and the area.

Conclusion on Appeal A

31. For the reasons given above, having regard to the development plan as a whole and all material considerations, the appeal is dismissed.

Appeal B

32. This ground of appeal is that the period for compliance is unreasonably short.
33. The appellant states that additional time is required to enable the Council to determine two planning applications that were before them at the time Appeal B was submitted. As one of these applications is the subject of Appeal A and I have no details of what the other application³ was for or whether it has since been determined, I find no justification for why the period for compliance of 2 months is unreasonably short.
34. The ground (g) appeal fails.

Formal Decision

Appeal A

35. The appeal is dismissed.

Appeal B

36. The appeal is dismissed and the enforcement notice is upheld.

A Walker

INSPECTOR

³ Council Ref 23/2463M