
Appeal Decision

Site visit made on 17 June 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2024

Appeal Ref: APP/J2373/D/24/3340033

Roseway, Robins Lane, Blackpool FY6 7QP

- 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 James Mabbett against the decision of Blackpool Council.
 - The application Ref is 23/0791.
 - The development proposed is single storey rear extension, replacement of existing flat roof with new pitched hip roof, demolition of existing side porch.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr and Mrs James Mabbett against Blackpool Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development in the above banner heading is taken from the planning application form.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect on the character and appearance of the area; and
 - if found to be inappropriate development, 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 to justify the development.

Reasons

Whether inappropriate development

5. The appeal relates to a detached red brick bungalow, situated on the western side of Robins Lane, within land designated as Green Belt. Attached to the north facing

- side elevation of the appeal dwelling is a single-storey, flat-roofed extension which, according to the submissions, was granted planning permission in 1977.
6. The proposal seeks to extend the appeal property with a single-storey rear extension, along with the construction of a hipped roof over the existing side extension.
 7. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of the Green Belt being their openness and permanence. The Framework 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.
 8. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. One such exception, criterion (c), being 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.
 9. The term 'original building' is defined in the Glossary of the Framework as "*A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.*" As detailed earlier, the appeal dwelling has been extended under a planning approval from 1977 and consequently this existing extension does not form part of the original building.
 10. The Framework does not provide a definition of 'disproportionate additions' and my attention has not been drawn to any such definition within the relevant Development Plan policies or Supplementary Planning Documents. As such this is a matter of planning judgement.
 11. In this regard, I find that the appeal proposal, when taken in combination with the existing single-storey side extension, would result in a significant increase in both footprint and volume in comparison to that of the original building, resulting in disproportionate additions over and above the size of the original building.
 12. As such, the appeal proposal is not within the list of exclusions in paragraph 154 of the Framework and would be contrary to Policy CS6 of the Blackpool Local Plan Part 1: Core Strategy 2012 – 2027 (2016) (CS), which states that in Green Belt areas the Council will apply national policy to protect their openness and character. As such CS Policy CS6 conforms with the provisions of the Framework.
 13. Therefore, when judged against the wording of both local and national policy, the proposal is inappropriate development in the Green Belt, which is, by definition, harmful.

Openness

14. The Framework emphasises that a 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 spatial as well as visual aspects.
15. The proposed creation of a hipped roof above the flat-roofed extension would increase the height, size and massing of the building on this side of the dwelling and this would be visually more prominent than the existing flat roof.

16. Furthermore, whilst situated to the rear of the bungalow, I observed on site that the proposed single-storey extension would be partially visible from sections of Robins Lane, particularly when viewed from the south. I acknowledge that the site to the south has permission for a replacement dwelling to be erected which would, if implemented, likely provide additional screening, however there is currently no guarantee that this neighbouring development will be carried out.
17. As such, the proposed single-storey rear extension and creation of a hipped roof above the existing side extension would both have an impact on the visual openness of the Green Belt.
18. In regard to spatial openness, the proposed hipped roof would not increase the footprint of the building. However, the proposed single-storey rear extension would increase the footprint of the dwelling and result in built development where there currently is none. In this regard the proposal would also have an impact upon the spatial openness of the Green Belt.
19. In view of the above the appeal proposal would increase the volume, massing and footprint of the existing building and in doing so would result in a harmful loss of visual and spatial openness, albeit given the scale of the development I consider this harm would be limited. Nevertheless, the proposal would not preserve the openness of the Green Belt, thereby conflicting with the aims of including land within the Green Belt when assessed against the Framework. This harm would be in addition to the inappropriateness of the scheme.

Character and appearance

20. The existing bungalow, with its hipped roof design, central entrance door and bay windows either side has a traditional appearance and makes a modest positive contribution to the character and appearance of the area.
21. The existing flat-roofed, single-storey, side extension, is visible from various points along the highway of Robins Lane, particularly when stood directly to the front of the appeal property and when viewed from the north. This extension has a bay window in its front elevation and whilst its flat roof design is not in keeping with the existing roof design of the original dwelling, it ensures that the extension remains subservient to the host property. Overall, I find this existing side extension has a neutral impact upon the character and appearance of the host property and surrounding area.
22. The proposed creation of a hipped roof above this extension would be visually more prominent than the existing flat roof design. However, it would be in keeping with the roof design of the main dwelling and thus would not detract from the main positive features of the existing property. As such, the proposed alteration to the roof above the existing extension would not result in a dominant and incongruent feature.
23. The Council's reason for refusal refers to the lack of a set back from the front elevation and lack of set down below the ridge. The Council has also made reference to the guidance contained within the Extending Your Home Supplementary Planning Document (2007) (SPD), specifically drawing my attention to the requirement for side extensions to be set back from the front of the property.
24. In this regard the side extension currently exists and is already set flush with the front elevation of the property. Furthermore, this section of the SPD also states

that this requirement is applicable in a street characterised by regularly spaced properties of similar design and scale.

25. I observed on site that this section of Robins Lane does not include regularly spaced properties and the existing dwellings are of a varied design and scale. Thus, I find that the SPD's requirement for a setback from the front elevation is not applicable in respect of this appeal proposal. Furthermore, as a result of the hipped roof design I also find no harm arising from the proposed roof being set at the existing ridge height.
26. In view of the above, I conclude that the appeal proposal would not have a harmful impact upon the character and appearance of the appeal property and surrounding area in general. I therefore find no conflict with Policy CS7 of the CS and Policies DM17 and DM20 of the Blackpool Local Plan Part 2: Site Allocations and Development Management Policies (2023). These policies together seek to ensure, amongst other things, that developments are high quality and well designed; appropriate in terms of scale, mass, height and appearance; and have a consistent architectural style across the whole building.
27. I also find no conflict with the requirements of the Framework, where it seeks to secure high quality design which takes account of the local character and reflect the local surroundings.

Other considerations

28. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.
29. The appellants submission argues that a rear extension very similar to that of the appeal scheme could be built under permitted development (PD) rights, and that a roof measuring up to 4m metres in height above ground level could also be erected above the existing side extension under PD rights. The appellants contend that this represents a fallback position.
30. As defined in case law¹ there only needs to be a "realistic prospect" or "a possibility" of the fallback scheme being implemented and the appellants are clearly seeking to extend this dwelling. As such, I consider there is a reasonable prospect of extensions being built at the appeal site, under PD rights, if the appeal is dismissed.
31. However, for significant weight to be afforded to a fallback position it would need to be more harmful than the scheme for which permission is sought. This, along with the weight to be given to the fallback position, is a matter of planning judgement based on the specific circumstances of the case.
32. In respect of the fallback position for the rear extension, the appellants assert that the rear extension would be PD if the height of the proposed extension was slightly reduced so as not to exceed the eaves height of the existing dwelling. However, the appellants have not provided evidence of an approved lawful development certificate to demonstrate that this rear extension would be PD, subject to the minor change in height they have acknowledged.

¹ Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314

33. Furthermore, the Council contend that the proposed single-storey rear extension would not be PD, before stating that a smaller rear extension could be built under PD to the rear of the original bungalow. As such, there is a disagreement between the parties as to whether a single-storey rear extension that spans the full rear width of both the original dwelling and the existing side extension could be built under PD rights.
34. In view of this disagreement between the parties, it is not the role of the Inspector when dealing with a Section 78 appeal for planning permission to determine whether an operation is lawful in order to decide whether the appellants may be able to rely on PD rights as a fallback. This can only be formally determined by a lawful development certificate.
35. In the absence of a lawful development certificate to demonstrate that a proposed rear extension, spanning the full rear width of the appeal dwelling and the existing side extension, could be erected under PD rights, I cannot confirm that the appellants purported fallback position in respect of the rear extension is legitimate.
36. There however appears to be no disagreement between the parties that a smaller single storey extension, which spans across the width of the original dwelling only, could be built to the rear of the appeal property. However, given that this would be smaller in footprint it would inevitably have less of an impact upon both the spatial and visual openness of the Green Belt than the appeal proposal. As such, the appeal proposal would be more harmful to the openness of the Green Belt than this smaller single storey rear extension.
37. With regard to the appellants declared fallback position in respect of the roof over the existing side extension. The appeal proposal's hipped roof above the existing side extension would have the same ridge height as the existing dwelling and would therefore exceed 4m in height above ground level. Consequently, the appeal proposal exceeds the limits afforded by PD rights and is therefore not directly comparable to the fallback position.
38. As a result of its additional height the roof of the appeal proposal would be evidently more visually prominent than a roof that could be constructed under PD rights. Therefore, the roof of the appeal proposal would have more of an impact on the visual openness of the Green Belt than the roof of the PD fallback scheme.
39. I also note the appellants view that a 4m high roof built under PD rights would look out of place and be visually more harmful than the appeal proposal. However, I have very limited evidence before me in respect of what could be erected to the side of the property under PD rights and its potential visual impact.
40. In view of all the above, given its reduced size in comparison to the appeal proposal, the established fallback scheme would not be as harmful to both the visual and spatial openness of the Green Belt as the appeal proposal. Consequently, and overall, I therefore afford the fallback position(s) only limited weight.
41. The appellants have also made reference to the potential to extend the property further at the rear than the current proposal under the Prior Notification procedure as a further fallback position. However, I have not been provided with any evidence that the appellants have been granted Prior Approval for a larger home extension. As such, I attribute very limited weight to the Prior Notification procedure as a fallback position.

42. The appellants have highlighted a previous approval at the appeal site from 1988² for a larger extension than the appeal proposal. No evidence has been provided to demonstrate that this previous permission is extant.
43. While I acknowledge that the Green Belt designation of this area was in place when this previous application was considered acceptable, this previous application was however determined under a different development plan and prior to the publication of the Framework. Consequently, there has been a material change in planning policy since the previous approval in 1988 and I have not been provided with any evidence to suggest otherwise.
44. Furthermore, whilst this previous approval is a material consideration, I am not bound by a previous decision of the Council and have exercised my own judgement on the appeal proposal. I therefore attribute limited weight to the previous approval from 1988 in favour of the appeal scheme.
45. My attention has been drawn to a number of properties in the vicinity of the appeal site which have been granted planning permission. The appellants assert that these have a greater impact on the openness of the Green Belt than the appeal scheme, and the Council have been inconsistent by allowing significantly larger extensions at these sites than that proposed by the appellant.
46. In respect of the decisions at Westgate³, these applications sought permission for a replacement dwelling and thus are not comparable to the appeal proposal which seeks to extend an existing dwelling. Additionally, whilst plans from these applications have been submitted as part of the appellants submissions, I do not have all the information before me in respect of these decisions, including the footprint and volume calculations of what previously existed on this site compared to what has been approved.
47. Cliff View is a two-storey dwelling situated to the northeast of the appeal site, on the opposite side of Robins Lane. The appellants state that this property has been extensively extended. Again, I have not been provided with all the plans and details of the planning history for this site, or the increase in footprint and volume calculations in respect of the original building. Nevertheless, it would appear from the submitted plans that the original dwelling at Cliff View was larger than the appeal property and this is a significant factor when determining whether or not proposed extensions are "disproportionate" to the original building.
48. Furthermore, the Council has stated the proposal at Cliff View was an entirely different proposal to the appeal scheme as there were some elements of the development at Cliff View that were PD and the applicant had the relevant prior approval and certificates of lawfulness in place which amounted to very special circumstances. As such, on the evidence before me, I cannot draw a direct comparison between the planning approval at Cliff View and the appeal proposal.
49. The appellants have also made reference to extensions at Robin Lea, as well as another unnamed property on Robins Lane. However, I have been provided with very limited details of the planning history and plans relating to these properties. Consequently, I again cannot draw any direct comparison between these properties and the appeal proposal.

² LPA Ref: 4/88/1741

³ Ref: 06/0578 & 08/1180

50. In view of the above, whilst consistency of decision making is important to the parties and to ensure public confidence, each application must be determined on its own individual merits. However, these decisions are a material consideration in the determination of the appeal and thus I have taken them into account accordingly. Nevertheless, for the reasons given above, I attribute these previous decisions of the Council limited weight in favour of the appeal scheme.
51. The submission states that the proposal is the only viable solution to remedy the problems of a leaking flat roof, with the added benefit of improved insulation which would reduce energy consumption and provide economic benefits in the long term. Furthermore, I consider there would also be some economic benefits arising from the proposed building works.
52. I have limited evidence that the appeal proposal is the only way to fix the leaking roof and the only means to achieve the improved energy efficiency of the dwelling. Even so, I give the economic and other improvements to the property, included the potential for improved energy efficiency, some limited weight in favour of the appeal scheme.

Green Belt Balance

53. The proposal constitutes inappropriate development in the Green Belt and results in limited harm to openness. By virtue of paragraph 153 of the Framework this harm attracts substantial weight. I have concluded that the appeal proposal would not harm the character and appearance of the host property and surrounding area, however this is a neutral factor which does not weight for or against the proposal.
54. The Framework makes it clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations for planning permission to be granted. In this case, I find that although there are matters which provide limited weight in favour of the appeal, the weight of these other considerations does not clearly outweigh the totality of the harm arising to the Green Belt.
55. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case.

Conclusion

56. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

R Major

INSPECTOR