



Appeal Decision

Site visit made on 26 July 2024

by S. Hartley BA (Hons) Dist.TP (Manc), DMS, MRTPI, MRICS

an Inspector appointed by the Secretary of State

Decision date: 7TH August 2024

Appeal Ref: APP/D2320/D/24/3342320

Land adjacent to Lynric Farm, Blue Stone Lane, Mawdesley, Lancs L40 2AB

- 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 Mr Alan Birch (Birch Developments Ltd) against the decision of Chorley Council.
 - The application Ref is 23/00962/FUL.
 - The development proposed is a rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is made retrospectively for development already constructed.
3. The local planning authority (LPA) in its officer report refers to '*the side extension and the rear extension for which retrospective permission is currently sought*'. However, the Council's Decision Notice refers only to a rear extension, as do the submitted plans and the application forms. For the avoidance of doubt, I have determined the appeal regarding what both parties call the rear extension.

Main Issues

4. The appeal property is located within the Green Belt and is sited at, and is part of, a relatively new development of brick dwellings of various sizes and heights constructed along the cul-de-sac known as Clay Hollow Lane.
5. The main issues are (i) whether the proposed extension is inappropriate development within the Green Belt including openness and (ii) if the proposal is inappropriate development within the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances to justify development.

Reasons

Whether inappropriate development

6. Paragraph 152 of the National Planning Policy Framework 2023 (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 154 makes it clear that, other than in specified circumstances, new buildings are inappropriate development. One of the

exceptions of this is paragraph 154 (c) which permits 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.

7. Policy HS5 of the Chorley Local Plan 2015 (LP) is supportive of such extensions to the original property and where an increase of over 50% of the original building is considered to be disproportionate. The Central Lancashire Rural Development Supplementary Planning Document 2012 (SPD) refers to the same limit.
8. Both the main parties agree that the rear extension exceeds the above limit. The appellant states that *'the single storey rear extension comprises of identical to the existing bungalow's dimensions and footprint (ie 7977mm by 7977mm = 63.63m²) excluding the side extension that was permitted by the Certificate of Lawful use application (Ref:23/00683/CLPUD)'*.
9. The LPA considers in its officer report that *'the cumulative volume of the side extension and the rear extension for which retrospective permission is currently being sought represents an increase of 163% greater than the volume of the original dwelling as approved'*.
10. Even though the side extension to which the LPA refers is not a matter before me, I consider that the volume increase of the rear extension over that of the original building is such as to amount to inappropriate development within the Green Belt, contrary to LP policy HS5, the SPD and the Framework. This is a matter to which I afford substantial adverse weight in decision making terms.

Effect upon the openness of the Green Belt

11. The extension is clearly visible from Clay Hollow Lane. Openness has both a volumetric and a visual component. In both aspects, I conclude that there is limited harm caused to the openness of the Green Belt by the rear extension.

Other Considerations

12. The appellant considers that the extension was constructed because of a misunderstanding of the terms of the Town and Country Planning (General Permitted Development) England Order 2015 (as amended) (GPDO) and also that, had he made an application for a larger house extension under the provisions of the GPDO prior to starting the construction, it would have been approved. He considers that the fact that no objections have been received to the current appeal is testament to that, as is the fact that the property known as the Hillocks recently gained clarification that no prior notice was required for a 5.9 metres rear extension. However, the GPDO procedure to which reference is made is a separate process with its own regulations and I cannot presume that any such application would succeed.
13. The appellant also makes reference to other permitted development possibilities, particularly with regard to a rear extension of up to 4 metres and proposes that it would be his intention to demolish the existing extension if the appeal is dismissed, to erect a new 4 metre width rear extension under permitted development rules in the GPDO, and thereafter to apply for an extension to it so as to arrive back at the current situation, but in the process, having had to incur avoidable expense. While there may be a greater than theoretical prospect of permitted development rights being exercised, I have no such plans before me, nor is there any certainty as to the outcome of any

subsequent planning approval which might be necessary to achieve the full result. Therefore, I attach only limited weight to the outlined scenario as a fallback position.

14. The appellant notes that agreement has been reached to sell the appeal property and where such a sale will proceed whatever the outcome of the appeal. One of the prospective purchasers suffers from long covid symptoms and requires a smaller property to deal with mobility difficulties. The doctor has written to state that a dusty atmosphere, consequent upon any significant alterations to the property resulting from the appeal decision would be likely to result in a deterioration in the current medical conditions of the person concerned.
15. When considering the appeal, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
16. Nonetheless, the positive weight that I afford to the health condition is tempered by the fact that I have no evidence about what might follow from the appeal decision, including whether alternative accommodation might be made if required, for how long it might be needed, or indeed the amount of upheaval caused and dust created consequent to the appeal decision. This reduces the weight that can be afforded to these personal circumstances in this case.
17. I find that my decision to dismiss the appeal is a necessary and proportionate approach to the legitimate aim of ensuring good design in the public interest.
18. More generally, the appellant considers that if the extension is not permitted then, if it has to be demolished, this would cause noise disturbance, construction works and environmental impacts. I have no details of the extent of such impacts, but in any event, I consider that they would be short lived.
19. The appellant also considers that the Council can only demonstrate a 3.3 year supply of housing land at June 2022 and therefore that paragraph 11 of the Framework is engaged. This states that there is a presumption in favour of granting permission '*unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*'.
20. However, footnote No.7 to the above paragraph in the Framework states that land designated as Green Belt, as in this case, is included in the above exception.
21. Furthermore, the appeal does not refer to the addition of a dwelling but rather to an extension to an existing property.
22. For the above reasons, these other matters do not outweigh my conclusions on the main issues.

Conclusions

23. The proposal would be inappropriate development within the Green Belt. Furthermore, limited harm would be caused to its openness. I conclude that the collective Green Belt harm would not be clearly outweighed by the other

identified considerations so as to amount to very special circumstances to justify development. Therefore, the appeal should be dismissed.

S. Hartley

INSPECTOR