



Appeal Decision

Site visit made on 21 October 2024

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal Ref: APP/A0665/D/24/3342720

Kennel Lodge, Dutton Lane, Crowton, Northwich CW8 2TN

- 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 Joshua Roberts against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/01571/FUL.
 - The development proposed is the extension to existing porch and replacement of existing dilapidated garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The Council has raised no concerns with the extended porch element of the appeal proposal. The main issues are therefore:
 - whether the proposed garage would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposed garage on the openness of the Green Belt;
 - the effect of the proposed garage on the character and appearance of the area; and
 - if the proposal is inappropriate development, whether the 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 required to justify the proposal.

Reasons

Whether inappropriate development

3. Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (the CWCLP1) seeks to restrict development in the Green Belt and countryside to that which requires a countryside location and cannot be accommodated within identified settlements.
4. This policy sets out types of development which may be permitted in the Green Belt and countryside, one of which is the replacement of buildings. Policy STRAT9 goes on to state that in settlements and areas of the countryside that are within the Green Belt, additional restrictions will apply to development in line with the Framework.

5. Paragraph 154 of the Framework establishes that the construction of new buildings is inappropriate development in the Green Belt. There are exceptions to this general restriction, including at paragraph 154 c) for 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.
6. A further exception set out in paragraph 154 d) of the Framework, as reflected in Policy STRAT9 as noted above, is the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. The Council has assessed the proposed garage against both exceptions thus I shall address both in turn.
7. The supporting text to Policy DM21 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the CWCLP2) provides guidance on what constitutes a subordinate and small-scale extension/outbuilding. It notes that the increase in size, generally determined by assessing the net increase in floorspace as well as volume where the proposal involves an increase in height, should not be more than 30%.
8. The proposed garage would have a substantially larger footprint than the existing. The Council note the increase to floorspace would be approximately 273%. Whilst I do not have plans indicating the elevations of the existing garage, it also seems to me that the proposed replacement would have a considerably greater height.
9. For the reasons given, I find that the very substantial increase in massing and footprint of the proposal would cause it to be materially larger than the existing garage and that it represents a disproportionate addition over and above the size of the existing. As such, it would be inappropriate development in the Green Belt having regard to the Framework, Policy STRAT9 of the CWCLP1 and Policy DM21 of the CWCLP2.
10. I consider that the proposal does not fall to be assessed under exception 154 a) or b) of the Framework given its intended use as a domestic outbuilding.

Openness

11. Paragraph 142 of the Framework states 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. 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.
12. Whilst part of the proposed garage would be in the same position as the existing, due to its substantial footprint, much of it would occupy part of the garden where currently there is no built form. This would result in a spatial loss of openness. It would also be readily apparent from the adjacent public footpath due to its size and the rising topography of the land from this public vantage point, thus the visual openness of this part of the Green Belt would also be reduced. The presence of nearby buildings does not overcome this visual and spatial reduction.
13. Consequently, the proposal would result in harm to the openness of the Green Belt. Given the scale of the development I find that the overall degree of harm would be moderate.

Character and appearance

14. As noted, the proposed garage would be of a substantial mass. It would be sited forward of the front entrance to the host dwelling. Whilst this property occupies a raised positioning above the land on which the proposed garage would be sited, this is not by a significant amount.
15. By virtue of its size and positioning, the proposed garage would not be a subordinate addition but rather it would be an overly dominant feature which would harmfully compete with the host dwelling and its rural setting. It would not be of a domestic scale or appearance. Whilst there is some landscaping between the footpath and the appeal site, the proposed garage would nevertheless be visible from public vantage points due to its excessive size and raised siting.
16. I note the adjacent agricultural buildings are of a considerable height and footprint however they are read within a different context to the smaller, domestic scale of the appeal site, which the appeal proposal fails to respect or complement. The use of sympathetic materials to the host dwelling would fail to overcome the proposal's harmful design.
17. Accordingly, the appeal proposal would harm the character and appearance of the area and thus fails to accord with Policy STRAT9 of the CWCLP1 and policies DM3 and DM21 of the CWCLP2. Together, these policies aim to ensure that developments are subordinate to and respect the scale, character and appearance of their site and wider setting.

Other considerations

18. It has been suggested that the proposed garage could be erected through the exercising of permitted development (PD) rights. The appellant has provided various documentation in an attempt to demonstrate this.
19. There are clear disagreements between the main parties in respect of this matter, particularly around which elevation of the host dwelling constitutes its principal elevation. It is not for me within the context of this appeal to reach a finding on whether or not the proposed garage could be erected under PD rights. Nevertheless, it is important I consider and afford weight to this matter as a potential fallback to the appeal proposal.
20. Given the differences between the main parties, the lack of conclusive evidence and my observations during my site visit, I am not satisfied that there is a greater than theoretical possibility or real prospect of a fallback development being implemented. The appellant would be open to apply to the Council for a Certificate of Lawfulness to attempt to demonstrate otherwise. As such, I afford no more than very limited weight to this as a matter in favour of the appeal proposal.
21. Whilst I appreciate the appellants desire for secure storage of equipment, machinery and vehicles, it has not been demonstrated to me that the appeal proposal is the only way to achieve security in this respect.

Whether very special circumstances exist

22. The Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. Paragraph 153 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.

23. I have concluded that the proposal would be inappropriate development in the Green Belt and would cause moderate harm to its openness. As required, these are matters to which I give substantial weight. Additionally, I have identified that the proposal would harm the character and appearance of the area, harm which weighs heavily against the proposal.
24. The other considerations advanced in support of the appeal do not therefore clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist thus it would be contrary to the approach to developments in the Green Belt as set out in the Framework, Policy STRAT9 of the CWCLP1 and Policy DM21 of the CWCLP2.

Other Matter

25. The conduct of the Council during the course of the planning application is not a matter for me within the context of this appeal. Similarly, whilst concerns over alternate locations for the proposed development have been referenced by the appellant, no exact details are before me and, moreover, it is important that I consider the development which has been applied for and which was before the Council at the time it made its decision.

Conclusion

26. The proposal conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and that indicate a decision should be made other than in accordance with the development plan. Therefore, the appeal should not succeed.

H Ellison

INSPECTOR