

Appeal Decision

Site visit made on 29 October 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/V4250/D/24/3344811

391 Newton Road, Lowton, Wigan WA3 1NU

- 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 Mrs Anna Palin and Mr Paul Swift against the decision of Wigan Metropolitan Borough Council.
 - The application Ref is A/23/96525/HH.
 - The development proposed is a single storey extension at the rear and first floor extension over the existing dining room.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the determination of the planning application, the Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan ("PfE") was adopted in March 2024. The Council has confirmed that Policy CP8 of the Wigan Local Plan Core Strategy, adopted 2013 ("CS") has been superseded by PfE Policy JP-G9. It is mandatory for me to take account of the most relevant and up-to-date information in reaching a decision, therefore I have dealt with the appeal on this basis. Both parties have had the opportunity to comment upon the PfE and have therefore not been prejudiced.

Main Issues

3. The main issues are:
 - a) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ("the Framework") and any relevant development plan policies;
 - b) the effect of the proposal on the character and appearance of the surrounding area; and
 - c) the effect of the proposal on the living conditions of the occupiers of 393 Newton Road, with reference to outlook and sunlight.

Reasons

Inappropriate Development?

4. The proposal would comprise the construction of a single storey extension to the rear of the dwelling and a first floor extension above an existing ground floor addition to the rear of the dwelling. The appeal site is in the Green Belt.

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

5. Paragraph 154 of the Framework explains that other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One such exception is *(c) 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*. PfE Policy JP-G9 echoes the Framework.
6. Policy GB1B of the Wigan Replacement Unitary Development Plan, adopted 2006 ("UDP") states that extensions to existing dwellings in the Green Belt will only be allowed where:
 - (a) they do not exceed the cubic content of the original property by more than 75%;
 - (b) in any case, they are not more than 200 cubic metres and that the sum of additions to the original property does not exceed 200 cubic metres; and
 - (c) must not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land within it.
7. The supporting text to UDP Policy GB1B defines the "original" property to be the property as existed on 4 November 1991, or if built after that date, as originally built.
8. Parts (a) and (b) of UDP Policy GB1B are more prescriptive than the Framework. However, they outline the local criteria for what would not comprise a disproportionate addition over and above the size of the original building and are therefore not inconsistent with it.
9. Turning to part (c) of UDP Policy GB1B, paragraph 154(c) of the Framework does not require an extension to a building to preserve the openness of the Green Belt and not conflict with the purposes of including land within it. If an extension is found to not be inappropriate in the Green Belt, it cannot be regarded as harmful to either openness or the purposes¹. Consequently, part (c) is inconsistent with paragraph 154(c) of the Framework and therefore the provisions of the Framework outweigh it.
10. The dwelling was converted from a former stable block under planning approval A/07/68968 which also included a single storey extension to the rear. The Council assert that even if the existing rear extension did not form part of the original property, the proposed extensions together with the existing extension would not exceed the allowances detailed within parts (a) and (b) of UDP Policy GB1B. I have nothing before me to come to a different view. Consequently, the proposal would comply with the Council's local criteria for extensions to existing dwellings in the Green Belt.
11. The proposed extensions would therefore not result in disproportionate additions over and above the size of the original dwelling. In reference to the first main issue, they would meet the exception set out in paragraph 154(c) of

¹ Paragraph 17 of Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

the Framework and would not amount to inappropriate development in the Green Belt. They would also comply with PfE Policy JP-G9 and parts (a) and (b) of UDP Policy GB1B, the content of which I have previously described.

Character and Appearance

12. The proposed single storey extension would be subservient to the existing dwelling due to its scale and design. The proposed first floor extension would have a lower ridge height than the existing dwelling and would appear subordinate to it. Therefore, the scale and design of the proposed extensions would not dominate the original dwelling.
13. Consequently, in reference to the second main issue, the proposal would not have a detrimental effect on the character or appearance of the surrounding area. It would comply with Policy CP10 of the CS that seeks, amongst other things, to ensure that new development respects and acknowledges the character and identity of the borough and its locality in terms of the size and scale used.

Living Conditions

14. The appeal dwelling is attached to 393 Newton Road, a two-storey former barn/stables. The Council state that the proposed first floor extension would be in proximity of a ground floor kitchen window and a first floor bedroom window within No 393. At the time of my site visit, it was clear the building was not in use as a dwelling. Notwithstanding this, I have not been provided with substantive evidence to suggest that planning permission to convert the building into a dwelling is not extant under planning approval A/07/68968. Consequently, I must consider the effect of the proposal on the living conditions of any future occupiers.
15. The proposed first floor extension, due to its projection from the rear of the appeal dwelling, its siting along the shared boundary and its scale, would be oppressive and create an overbearing outlook when viewed from the first floor bedroom window within No 393. I acknowledge the proposal would comply with the "45-degree rule" detailed within the Council's House Extensions Design Guide Supplementary Planning Document, adopted 2019. However, this is limited to ground floor habitable windows and therefore, is not applicable to the first floor bedroom window.
16. The proposed extension would be sited due south of No 393's rear garden, which is limited in size. Due to the scale of the proposed extension, it is likely that it would overshadow No 393's rear garden to a significant degree.
17. The appellant asserts that No 393 is owned by a relative who is unlikely to pursue the conversion of the building into a dwelling. However, I do not have a mechanism before me to prevent the development from occurring.
18. In reference to the third main issue, the proposal would have an adverse effect on the living conditions of the future occupiers of 393 Newton Road, with reference to outlook and sunlight. It would conflict with Policy CP17 of the CS which, amongst other things, seek to ensure that new development is planned and designed so that it does not have an unacceptable adverse impact on amenity and quality of life.

Other Matters

19. It has been brought to my attention that a member of the appellants' family (a child) has a health condition that could meet the statutory definition of a disability. Since there is the potential for my decision to affect a person with a protected characteristic, I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010 ("the Act"), 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.
20. I have also had regard to Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998, that everyone has the right to respect for his private and family life and his home. Where Article 8(1) rights are those of children, as in this case, they must also be seen in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. Childrens' best interests are thus a primary consideration and no other consideration, including the impact on the living conditions of the occupiers of neighbouring properties, is intrinsically more important.
21. I have considered the personal circumstances of the appellants' family member. The best interests of the children weigh in favour of allowing the appeal. The appellant asserts that the first floor extension is required to provide an upstairs bedroom for the family member and for the lounge and kitchen to be together on the ground floor. Nonetheless, this consideration is tempered somewhat as the proposed first floor extension could be sited away from No 393 and still provide the interior layout changes that would benefit the child. Therefore, I am not persuaded from the information before me, that the best interests of the child could not be achieved by a less harmful way of extending the property.
22. As such, while I acknowledge the particular circumstances of the appellants' family member, there are no considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. My decision is a proportionate and legitimate response to the requirements of the Act and those of the plan led system.

Conclusion

23. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR