



Appeal Decision

Site visit made on 17 June 2025

by **M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th June 2025

Appeal Ref: APP/M0655/W/24/3355752

Mosswood Hall, Stretton Road, Stretton, Warrington WA4 4NW

- 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 Pamela and Adamo Lau-Devoti against the decision of Warrington Borough Council.
 - The application Ref is 2024/01018/FULH.
 - The development proposed is described as 'extension to residential property, detached swimming pool building and detached three bay garage.'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr and Mrs Pamela and Adamo Lau-Devoti against Warrington Borough Council. The costs application is the subject of a separate decision.

Preliminary Matters and Main Issues

3. The appellants requested that the appeal be dealt with by way of a Hearing. Based on all that I have seen and read, I am satisfied that in the context of the 'Criteria for Determining the Procedure for Planning Enforcement, Advertisement and Discontinuance Notice Appeals' guidance (2024), the written representations procedure is appropriate.
4. The appellants also wish the appeal to be considered on the basis of an original plan 222/P/10/A which incorporated a larger basement. However, this plan was superseded by a subsequent drawing for a smaller basement during the planning application process (222/P/10/C). The appeal process should not be used to evolve a scheme and it is important that the appeal is essentially the same scheme that was considered by the Council. I am therefore required to determine the appeal on the basis of the same proposal on which the Council made its decision.
5. In December 2024, the Government published a revised National Planning Policy Framework (the Framework). Both parties have had the opportunity to comment on the implications arising in respect of the appeal in their submissions and I have taken into account the comments received in reaching my decision.
6. Counsel for the appellants suggests that the appeal site should be considered as Grey Belt land. To qualify under paragraph 155 of the Framework in the case of non-major development, criterion a-c must be complied with. The proposal would

not increase the local housing supply and there is no evidence before me to suggest that it would meet a demonstrable unmet need for the type of development proposed i.e. domestic extensions and outbuildings. Nor is there evidence to suggest that the appeal site is located in an accessible location. During my visit I observed that it is not in proximity to existing shops and services to meet everyday needs, there is no floodlit footpath to such facilities locally and there was no evidence of the availability of public transport such as a local bus service. Consequently, I am of the view that the appeal site does not benefit from the provisions in the Framework with regard to Grey Belt land.

7. From the evidence before me, the main parties do not appear to dispute that the proposal would result in disproportionate additions to the existing dwelling resulting in inappropriate development within the Green Belt¹. Based on all that I have seen and read, it seems to me that the main issues in respect of this appeal are;
 - i) The effect of the proposed development on the openness of the Green Belt; and
 - ii) 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 required to justify the proposal.

Reasons

Openness

8. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension, as set out in the Planning Practice Guidance (PPG)².
9. The appeal site comprises a large detached 2-storey dwelling set in spacious grounds. It has been previously extended to the rear via a conservatory which would be removed along with an original 1.5 storey section to the side and a ground floor projecting corner bay window. An attractive original single-storey outbuilding range to the side would also be removed.
10. The proposed development would include the erection of a front porch, 2-storey side extension, small basement, single storey rear extension and rear dormer, plus a detached 3-bay garage with accommodation above and a detached swimming pool building. The appellants accept that the proposal would breach the arithmetical approach for determining disproportionate additions as set out in the Council's House Extensions Supplementary Planning Document (2021)³. It is clear to me that the size of the original dwelling would be almost doubled as a result of the proposal and that the size and volume of the proposed outbuildings individually and cumulatively, would be significantly greater than the one to be removed⁴. For these reasons, the proposed development could not be considered as anything other than disproportionate.
11. It follows that notwithstanding the removal of elements of the existing dwelling and the loss of the existing outbuilding, the proposal would result in a dwelling of a

¹ With reference to paragraph 154(c) of the Framework.

² Paragraph: 001 Reference ID: 64-001-20190722.

³ Paragraph 8.3 of the appellants statement of case.

⁴ With reference to the appellants calculations document.

greater scale and bulk than currently exists. The size and scale of the proposed outbuildings would also result in a more sprawling form of development with the proposed swimming pool building also occupying a space that is currently devoid of any buildings. There is no doubt that the proposal would have a greater effect on the openness of the Green Belt in spatial terms.

12. The appeal site is set back from Stretton Road behind mature evergreen tree planting, such that the majority of the dwelling is largely imperceptible from public vantage points. However, I observed that the roof and therefore the proposed front and rear dormers would be partially visible from the main road at the access point to Apple Jacks Adventure Farm⁵. The proposal would thus have a greater visual impact on the openness of the Green Belt although this would be limited by the localised and glimpsed public viewpoints and the generally limited scale of the proposed dormers. In this regard I agree with the previous Inspector that the proposal would not have a significant effect on the visual aspect of Green Belt openness⁶. However, that is not the same as having no effect and it is evident that some elements of the proposed development would be publicly visible.
13. The proposed extensions and outbuildings would provide a greater presence of development in the Green Belt, reducing its openness in predominantly spatial but also to a more limited extent, visual terms. The proposal would therefore conflict with the Framework insofar as it relates to this matter.

Other Considerations

14. This proposal follows what the appellants describe as ‘an all but identical proposal’ which was refused by the Council and subsequently dismissed at appeal earlier this year⁷.
15. The appeal site has an extensive planning history including a certificate of lawful proposed use or development (CLPUD) for the construction of a detached garage/workshop and private swimming pool⁸ and a prior approval for single storey side and rear extensions which is said to be extant⁹. These constitute a fallback position that the appellants could choose to implement instead.
16. I have not been presented with any elevation drawings of the developments which would form the fallback position such that I could conclusively conclude that they would be visually more harmful compared to the proposal before me. The site plan indicating the relative positions and footprints arising from the CLPUD and prior approval development does however, suggest a more piecemeal and sprawling form of extensions and outbuildings¹⁰ such that the proposal is likely to have a more positive impact on the Green Belt. This does not diminish the effect of a greater presence of development on the openness of the Green Belt as identified above.
17. There may not be greater than theoretical possibility of the fallback position being realised, given the appellants’ determined pursuit of the specific proposal before me. Nonetheless I recognise that the possibility of the implementation of the fallback, rather than the appeal proposal, could amount to the very special

⁵ Further shown in photographs supplied on page 9 of the appellant’s statement.

⁶ Appeal Decision APP/M0655/W/24/3346494.

⁷ Appeal decision APP/M0655/W/24/3346494.

⁸ Planning application reference 2019/36032.

⁹ Planning application reference 2021/40634.

¹⁰ Planning approval comparison drawing number 222/P/23 Rev B.

circumstances necessary to outweigh the harm to the Green Belt by reason of inappropriateness and harm to the openness of the Green Belt.

18. The appellants suggest that the prior approval rear extension could not be carried out if the proposed development was implemented. Be that as it may, the site plan before me indicates that the CLPUD and prior approval would give rise to multiple extensions and outbuildings that would not just overlap the development now proposed. Whilst I am advised that it is not the appellants intention to implement the fallback position, there would nonetheless be no mechanism to prevent them from implementing elements of it, in addition to the appeal proposal.
19. The appellants also suggest that further outbuildings could be added as permitted development given the extensive garden¹¹. They suggest that this would be improbable as such development would comprise the proposal which has been designed with large expanses of glazing to take advantage of the open aspect of the rear garden. Be that as it may, and irrespective of the fact that permitted development rights continue to apply in Green Belt locations, the planning history and plans before me indicate a clear intention by the appellants to maximise the development potential of the existing dwelling and its plot size. There would be nothing to preclude further outbuildings such as sheds, playhouses or greenhouses were permitted development rights to remain intact.
20. The parties have discussed the use of a Unilateral Undertaking (UU) to enable the appellants to relinquish the CLPUD and prior approval to prevent their implementation. The appellants consider the suggested UU would not meet the tests for planning obligations¹² and that it is more akin to a S106 agreement with clauses they consider to be onerous and difficult to understand. I have not been provided with a copy of the document discussed by the parties.
21. The prevention of certain forms of development by a planning obligation would not prevent further extensions and outbuildings from being permitted but instead would ensure that control is maintained to limit the effects of further development on the openness of the Green Belt. Even if the appellants disagreed with the specific wording of a UU, it would be open to them to produce their own UU or negotiate on the content of a S106 with the Council.
22. The appellants quote paragraph 1.17 of the Council's Planning Obligation SPD which makes reference to the Framework and PPG advice that planning obligations and conditions can be used to mitigate the impact of unacceptable development to make it acceptable in planning terms. In this case, that would be offsetting the proposed disproportionate additions to the dwelling by preventing possible permitted development from occurring.
23. Although the SPD suggests that it is better for the Council to impose a condition than dealing with the matter by way of a planning obligation, it goes on to recognise that there are a number of general circumstances in which planning obligations may be more appropriate. I consider that this is one of them.
24. A planning condition for the removal of permitted development rights would not crystallise and take effect until the proposed development is commenced. It would not therefore prevent the possible prior implementation of elements of the fallback

¹¹ Under Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

¹² As set out at paragraph 58 of the Framework and paragraph: 002 Reference ID: 23b-002-20190901 of the Planning Practice Guidance.

position which could result in further disproportionate additions to the original dwelling. Consequent further cumulative harm to Green Belt openness would occur which the Framework is clear should be given substantial weight. For these reasons, the imposition of a planning condition would not meet the tests of reasonableness or enforceability. I note that the same conclusion was reached by the previous Planning Inspector and there is nothing new in the evidence before me that would lead me to take a different view. For these reasons and in the absence of any mechanism to prevent the fallback position from being implemented, I find that very special circumstances to justify disproportionate additions to the original dwelling have not been demonstrated.

25. If the appellants are unable or unwilling to complete a planning obligation to support their proposal to demonstrate very special circumstances, they would be able to implement the extensions and outbuildings that constitute the fallback position.

Green Belt Balance and Conclusion

26. The Framework requires that substantial weight is given to any harm to the Green Belt, including harm to its openness, and states that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
27. The proposal would amount to disproportionate additions to the original dwelling such that it would amount to inappropriate development. Harm to the spatial openness of the Green Belt and visual harm to a lesser extent would also arise. In the absence of a suitable mechanism to prevent the fallback position from being implemented in addition to the proposal, the very special circumstances necessary to justify the proposal do not exist. The proposed development conflicts with the Green Belt protection aims of Policy GB1 of the Warrington Local Plan and the Framework as outlined above.
28. The proposal conflicts with the development plan and there are no material considerations including the Framework, which indicate a decision should be made other than in accordance with it. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR