



Appeal Decision

Site visit made on 17 October 2025

by K Winnard LL.B Hons Solicitor

an Inspector appointed by the Secretary of State

Decision date: 06 November 2025

Appeal Ref: APP/N1025/D/25/3370800

Brook Cottage, Derby Road, Risley, Derbyshire DE72 3SU

- 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 Jonathan Garton against the decision of Erewash Borough Council.
 - The application Ref is ERE/0325/0049.
 - The development proposed is a garage extension and provision of solar panels to existing garage roof.
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Decision

1. The appeal is dismissed insofar as it relates to a garage extension. The appeal is allowed insofar as it relates to the provision of solar panels to the existing garage roof and planning permission is granted for solar panels on an existing garage roof at Brook Cottage, Derby Road, Risley, Derbyshire DE72 3SU in accordance with the terms of the application, Ref ERE/0325/0049, and the plans submitted with it but only insofar as is relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Plans DE723SU.2_amc-XX 03 0015, Proposed Plans DE723SU.2_amc_03 XX 0016, Location Plan DE723SU.2_amc_03 XX 0002 and Site Plan DE723SU.2_amc_03 XX 0013.

Procedural Matters

2. The Council's first refusal reason as set out its decision notice refers to the Erewash Core Strategy (Core Strategy) Policy 3 and the Erewash Borough Council Local Plan Saved Policy GB1 (Local Plan). Saved Policy GB4 of the Local Plan, whilst not referenced in the decision notice has also been provided and is referred to in the Council officer's report on the planning application leading to this appeal. Saved Policy GB4 is relevant to the assessment of the appeal as it relates to extensions and alterations to dwellings within the Green Belt. The appellant has addressed the issues relating to this policy and as such, no injustice would be caused to any party by considering Saved Policy GB4 in my deliberations on the appeal.

3. The drawings submitted with the appeal scheme include development which is not part of the description. They do not form part of the Council's reasons for refusal, nor does the Council identify any conflict with the development plan in relation to these aspects of the development. Further I noted from my site visit that the enclosed garden store shown on the drawings has now been constructed. The focus of this decision is on the elements of the development as referred to in the Council's decision notice.
4. The appeal property, Brook Cottage (formerly Brook House) is a Grade II listed building within the Risley Conservation Area (RCA). The impact of the development on the listed building has not been raised as a concern. However, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) prescribes a duty upon a decision maker to give special regard to the desirability of preserving the significance of a listed building or its setting. Additionally, Section 72 of the PLBCA in respect of development affecting conservation areas, states that special attention shall be paid to the desirability of preserving or enhancing the character and/or appearance of the area. Furthermore, paragraph 212 of the National Planning Policy Framework (the Framework) states that great weight shall be given to the conservation of designated heritage assets. I accordingly deal with these matters further in my decision below.

Main Issues

5. The main issues in the appeal are:
 - 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;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area, having regard to the conservation area and listed building status of the appeal property and;
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations to amount to the very special circumstances necessary to justify the proposal.

Reasons

Inappropriate development

6. Brook Cottage is sited within the Green Belt. The Framework establishes that new buildings within the Green Belt are inappropriate other than for specified exceptions set out in the Framework. Paragraph 154 includes amongst other exceptions: (c) the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. Core Strategy policy 3 specifies that regard shall be had to the statutory purposes of Green Belt and Saved Local Plan Policy GB1 provides for a presumption against inappropriate development within the Green Belt unless very special circumstances apply. In addition, Saved Local Plan Policy GB4 requires that any proposals should not result in disproportionate additions over and above the size of the dwelling.

7. Part of the proposal would be for an extension to a detached outbuilding sited within the curtilage of the property close to its boundary with the public footpath/access road which runs from Derby Road. The list of exceptions in paragraph 154 does not include domestic outbuildings which in themselves would normally be inappropriate development. The Council has considered the garage to be an extension, but the appellant suggests that in terms of proportionality, comparisons should be made with it as a separate building, and not as part of Brook Cottage. Whether a detached outbuilding can be an extension to a building even if it is not physically attached is dependent on whether it can be considered a normal domestic adjunct. Given its domestic function and its proximity close enough to the dwelling to be used as part of the normal residential use of Brook Cottage, I consider that it falls to be considered as an extension to the house for Green Belt assessment purposes.
8. The definition of an original building is defined in the Framework glossary as a building as it existed on 1 July 1948 (the relevant date) or if constructed after that date, as it was built originally. No information has been presented to me as to the size of the building as existed at the relevant date. The planning history provided shows that Brook Cottage has had several extensions since this date. No drawings have been provided of any scheme or indeed confirmation as to whether these schemes were carried out. However, it is clear from the planning history and the development I viewed on site that Brook Cottage has been significantly extended since 1948, and this is not disputed by the appellant. More recently, the garage, the subject of the appeal scheme, was added within the curtilage of the dwelling. In this respect the only figure to have been provided to me is the Council's figure that shows there would be a 66% increase in the overall volume of the existing garage. The appellant has not provided me with their own calculations nor sought to dispute the volume increase presented by the Council.
9. Assessing proportionality is however an objective test based on size. Despite having a flat roof and a lower overall height to the existing garage, the proposed extension would have a significantly larger footprint and volume than the existing garage alone. It would result in a sizeable addition to the dwelling. When adding the proposed extension to the other extensions, it would result in disproportionate additions over and above the size of the building at the relevant date.
10. I conclude overall that the garage extension would constitute inappropriate development within the Green Belt, which is by definition harmful to the Green Belt, a matter to which I am required to attach substantial weight. The proposal would also be contrary to Core Strategy Policy 1 and Local Plan Saved Policies GB1 and GB4.

Openness

11. The fundamental aim of the Green Belt policy is to keep land permanently open. This has both a visual and spatial aspect. The proposed extension has been designed and sited to the rear of the outbuilding so that it would not harm the character and appearance of the property or the surrounding area. The garage extension would be well hidden from public vantage points. However, the proposal would introduce built form where there is currently none and the overall bulk and mass of the appeal property would be increased. Overall, this would result in a reduction in the spatial openness of the Green Belt, albeit to a limited extent.

Character and Appearance

12. I have little information about the significance and characteristics of the RCA and no conservation area analysis is before me. I noted from my site visit that the area in which Brook Cottage is located forms part of the original settlement of Risley. This part of the conservation area is characterised by several individual dwellings of differing ages and construction set back along one side of an access road/public footpath and which together form an historic pattern of development in this part of Risley.
13. Brook Cottage itself dates to the 17th century with later alterations, and its significance is in both architectural and historical. It has a spacious curtilage. The proposed extension would be constructed to the rear of the garage and has been designed to minimise its visibility. The design would be contemporary using the differing land levels to accommodate the extension and would use modern materials with a green roof. I do not share the concern of the Council that because the roof of the extension would be flat and of a large scale that it would be inappropriate within a conservation area. Given its siting it would not have any impact visually from public vantage points. Whilst visibility is not the only consideration to be had as part of assessing the character, appearance and local distinctiveness of the area, the design of the proposed extension would be such that it would not overcomplicate the form of the existing outbuilding nor harm the positive characteristics of the area. Further, I noted flat roofs on ancillary buildings/extensions readily visible from the access road elsewhere in the RCA. Hence, the flat roof would not in any event be an uncommon feature within the area.
14. The listed building itself is sited to the south of the appeal site and away from the existing garage sited to the north of the appeal site. The setting of a heritage asset is concerned with the way the heritage asset is experienced. Owing to the land levels, the positioning of the listed building and the siting and design of the proposed extension there would be limited visibility between the extension and the listed building. There is no historic connection between the listed building and the garage. The listed building would remain the dominant building in views of the appeal site and the appeal scheme would not undermine its significance. Nor for the reasons given above would it have a harmful effect on the conservation area more generally.
15. As part of the appeal scheme solar panels are proposed on the front roof slope of the existing garage. Given that the solar panels would be placed on a building within the curtilage of a listed building, those permitted development rights for renewable energy¹ which would ordinarily apply are not applicable in this instance. The garage is of recent construction and there are no special architectural features to its design. Given this, the visual separation and distance from the listed building I find that that element of the appeal scheme relating to the provision of solar panels on its front roof slope would not harm the character and appearance of the area, nor to the setting, special interest or significance of the listed building.
16. Accordingly, I conclude that the development as a whole would not harm the character and appearance of the area, nor would it cause any harm to the setting, special interest or significance of designated heritage assets. As such, it would not

¹ Part 14 class A.1(e) The Town and Country Planning (General Permitted Development) (England) Order 2015

conflict with Saved Local Plan Policies ENV5 and Core Strategy Policy 11 which requires development to preserve or enhance the special character and appearance of a conservation area, and to support proposals which substantially enhance the significance of heritage assets.

Other Considerations

17. The provision of solar panels would provide environmental benefits in the terms of generating green energy which is an important national policy objective. However, on the information before me there is nothing to suggest that the provision of solar panels on the existing garage roof is dependent on the entirety of the scheme as proposed. Further, whilst I accept that the scheme would deliver reduced energy consumption this is not quantifiable. The scheme would also provide sustainable and biodiversity benefits. However, based on the information before me and given the overall scale of the development, these matters attract limited weight in favour of the scheme.
18. The scheme would create additional space for the occupants of Brook Cottage and enhance their residential use of the property. However, these are personal benefits and so only attract modest weight in favour of the proposal.

Other Matters

19. That part of the scheme relating to the provision of solar panels on the roof slope of the existing garage is both physically and functionally severable from the garage extension. As such I feel that a split decision would be appropriate in this instance.
20. The appellant has expressed dissatisfaction with the way the Council handled the application, including the length of time taken to determine the application. However, this matter has little weight, and it does not therefore alter my findings.

Conditions

21. In respect of the solar panels I have attached the standard time condition and a plans condition to provide clarity and certainty to the approved scheme.

Green Belt Balance and Conclusion

22. The proposal for an extension to the garage would be inappropriate development in the Green Belt with a limited loss of spatial openness. The Framework states that substantial weight should be given to any harm in the Green Belt. The absence of harm to the conservation area is a matter of neutral weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The other considerations outlined above do not clearly outweigh the harm to the Green Belt I have identified. Consequently, the very special circumstances necessary to justify this part of the development do not exist and thus this part of the proposal would conflict with the Development Plan and the Framework.
23. Accordingly, the appeal should succeed in relation to the provision of solar panels on the existing garage. However, in relation to the proposal to extend the garage, the appeal is dismissed.

K Winnard INSPECTOR