

Planning Statement

For Mr Phil Kitching | 23-019

Construction of a single storey rear extension to form an orangery - Ollersett Farm, Laneside Road, New Mills, Derbyshire, SK22 4QW

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PLANNING

Project:	23-019
Site Address:	Ollersett Farm, Laneside Road, New Mills, Derbyshire, SK22 4QW
Client:	Mr Phil Kitching
Date:	29 March 2023
Author:	Clare Gascoigne
Approved by:	Caroline Payne

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EP1 – copy of appeal decision APP/R0660/D/19/3240413 at Green Lane Farm, Bollington, Cheshire.

1. Introduction

1.1 This statement has been prepared to accompany a householder application seeking planning permission for the construction of a single storey rear extension for the construction of an orangery on the rear elevation of the property.

1.2 This application seeks an enhancement to the similar flat roofed orangery that has been certified as permitted development under recent Lawful Development Certificate HPK/2022/0145 for a Class E outbuilding. The proposal is now to close the gap between the permitted development outbuilding and the house.

1.3 The site is located in the Green Belt and it is acknowledged that, in planning policy terms, the extension proposed in this application would be a disproportionate addition to the original dwelling. It would therefore be inappropriate development in the Green Belt that can only be permitted if other considerations amount to the very special circumstances required by planning policy to justify approval.

1.4 This statement confirms that the applicant could construct a very similar orangery on the rear of the property with a flat roof which would be of an uncharacteristic design without the need for planning permission. The proposed lean-too orangery is to be constructed at slightly lower level with a lean to pitched roof. The eaves height and roof pitch would match the existing lean to kitchen and utility extension. The modifications to the design are an improvement to the permitted development scheme.

1.5 This statement demonstrates that the proposal would not result in any additional impact on the character, appearance or openness of the Green Belt over what could be lawfully constructed without the need for planning permission.

1.6 This fallback position is a consideration that clearly outweighs the harm by reason of inappropriateness arising from the development proposed in this application. As very special circumstances can be demonstrated, this proposal would meet the Green Belt policy tests and therefore planning permission should be granted.

2. The application

2.1 The application proposes a single storey lean to orangery extension off the rear elevation of Ollersett Farm. The orangery would be constructed from stone to match the excising building, timber frame and glass.

2.2 The proposal differs from the permitted development in that it closes the gap with the house. In addition, the proposed extension is now set down at a slightly lower level to enable the roof to be constructed as a lean to design to complement the existing lean to kitchen and utility extension and roof. As a result, the proposal is slightly smaller in cubic content than the permitted development outbuilding i.e. the permitted development orangery has an overall cubic content of 119.9 m3 and the proposed orangery subject to this application has a cubic content of 116.2 m3. As a result, the proposal is slightly smaller and of a better design that complements the existing building.

3. Context

Site location and description

3.1 Ollersett Farm is located outside the settlement boundary of New Mills and within the Green Belt. The property is accessed by a private track from Laneside Road, which is also the route of a public footpath. The building is located within the Green Belt. The property is believed to have been constructed in 1752 as a two storey dwelling with an attached barn. The property has since been extended following the grant of previous permissions for the conversion of the attached barn to additional living accommodation and extensions to the property.

Relevant planning history

3.2 The property has a detailed planning history with regard to the previous planning applications and Lawful Development Certificates. The relevant planning history for the property in relation to this current application are as follows:

Application Ref	Description	Decision
HPK/2004/1168	Conversion of existing adjoining barn to form new living room, two extra bedrooms and new extra bath	Approved 2005
HPK/2009/0124	Singe storey gabled extension and alterations	Refused 2009
HPK/2009/530	Change of use of adjoining barn to additional living accommodation (retrospective application for changes to external design details previously approved under HPK/2004/1168). A planning appeal was submitted seeking the removal of conditions 2 and 3 on this approval but was later withdrawn (Appeal ref: APP/H1033/A/09/2118195/F).	Approved 2009

HPK/2010/0218	Certificate of lawful use or development for use of land as garden. See appendix EP1 for confirmation of area approved as garden to south of building	Approved 30/06/2010.
HPK/2010/0395	Certificate of Lawfulness for use of land as residential curtilage	Refused 30/09/2010
HPK/2010/0439	Proposed single storey extension	Withdrawn
NMA/2010/0017	Non-material amendment to HPK/2009/0530 to amend windows of northwest elevation	Approved 2010.
HPK/2012/0683	Certificate of Lawfulness of proposed development - for single storey extension	Approved 2013
HPK/2020/0024	Certificate of Lawfulness for existing use of residential garden land – see appendix EP2	Approved March 2021.
HPK/2022/0145	Certificate of lawfulness of proposed development – detached orangery and conservatory	Approved January 2023

4. Policy context

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (NPPG) are material considerations.

4.2 For the purpose of considering the current proposals the development plan consists of the High Peak Local Plan (2016).

Development plan context

4.3 The High Peak Local Plan was adopted in April 2016 and covers the plan period to 2031. The relevant policies of the plan are listed below:

- Policy S1 - Sustainable Development
- Policy EQ3 - Rural Development
- Policy EQ4 – Green Belt development
- Policy EQ6 - Design and Place Making

National planning policy and guidance

National Planning Policy Framework

4.4 The relevant sections of The Framework are as follows:

Achieving sustainable development

4.5 Paragraph 11 in relation to the presumption in favour of sustainable development states:

> *"Plans and decisions should apply a presumption in favour of sustainable development".*

4.6 It also states:

> *"For decision taking this means approving development proposals that accord within an up-to-date development plan without delay; and where there are no relevant*

development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:-

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

Protecting Green Belt land

4.7 In relation to proposals affecting the Green Belt, paragraphs 147 - 151 establish that new development should be considered inappropriate in the Green Belt, with certain exceptions as specified in paragraphs 147 and 148. Paragraph 147 states that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other material considerations

High Peak Design Guide Supplementary Planning Document (2018)

4.8 The Design Guide Supplementary Planning Document (SPD) identifies the overarching principles in securing good design.

4.9 The Design Guide places great emphasis on the need for considered and high-quality design, in accordance with HPLP Policy EQ6 and the Residential Design SPD. With regard to extensions to buildings it requires all extensions to harmonise with the parent building and to be subordinate to it in terms of size and massing.

High Peak Residential Design SPD (2005)

4.10 The Residential Design SPD provides specific design guidance in relation to residential development.

4.11 The guidance in Section 9: Domestic extensions, overlaps with the more recent Design Guide. The document also advises that extensions and openings should maintain proportion and symmetry and should complement the existing house.

High Peak Landscape Character SPD (2006)

4.12 This SPD provides guidance for the design of new developments and alterations to existing developments including landscape design and covers all forms of development in the countryside including residential. The area designation for the application site is classed as 'Settled Valley Pastures'. The guidance indicates that new development should be made to fit in with their surroundings.

5. Planning considerations

5.1 This section of the statement will demonstrate that there are strong planning reasons to justify the approval of planning permission for the development proposed. Relevant planning considerations are assessed below.

Green Belt

5.2 The proposal is for extension and alterations to an existing building and therefore the principle of the development is capable of being not appropriate in the Green Belt in accordance with paragraph 147 of the Framework. The Framework gives no guidance as to what would be interpreted as 'disproportionate'.

5.3 Policy EQ3 allows for extensions to dwelling provided they are subsidiary to the building and do not have an adverse impact on the character of the landscape.

5.4 Policy EQ4 on the Green Belt seeks to protect and maintain its openness and permanence and that development will not be granted for development unless it is in accordance with national planning policy.

5.5 It is acknowledged that the extension proposed in this application would result in a disproportionate addition to the original building. As such, it would represent inappropriate development in the Green Belt.

5.6 The Framework advises that inappropriate development should not be approved except in very special circumstances. It also advises that very special circumstances will not exist unless potential harm to the Green Belt is outweighed by other considerations. The case for very special circumstances is set out below.

Very Special Circumstances

The fallback

5.7 In considering whether planning permission should be granted for the proposed extensions, consideration must be given to the 'fallback' position.

5.8 At paragraph 70:30 of the Encyclopedia of Planning Law provides commentary on section 70 of the Town and Country Planning Act 1990 relating to decision making, and other material considerations. It states:

> "The planning authority are entitled and indeed obliged, to have regard to the 'fallback' position i.e. what the applicant could do without any fresh planning permission".

5.9 It is therefore important to consider what alternative options the applicant would have for developing this site should planning permission be refused. This includes extending the house using permitted development rights.

5.10 Consideration needs to be given to the permitted development scheme set out in the certificate of lawfulness application already approved at the property (application HPK/2022/0145). This application proposes to link the extension by omitting the gaps between two sides of the orangery (that are necessary in order to comply with the limitations of permitted development rights) but also to change the flat roof design to a pitched roof design. Consequently, planning permission is required, but the resulting development would have an improved design and a reduced cubic content to the approved permitted development scheme.

5.11 The fallback option of implementing the already approved development is a material consideration that comprises the very special circumstances required to justify approving an appropriate development and should be given significant weight in determining this application.

5.12 It is clearly in the applicant's interests to alter and extend the property; the planning history demonstrates the applicants' intention to do this and it would add significantly to the enjoyment of their home and the value of the dwelling. The applicants would certainly construct the permitted development scheme if they were unsuccessful in obtaining planning permission for the linked extension proposed in this application. The proposed links and improved design would create no additional impact on the Green Belt.

5.13 The extension is slightly smaller than the scheme for the orangery which has been approved under permitted development and now runs through on the same eaves height and roof line as the existing lean too. The design is much more in keeping with the existing building. As such in terms of the spatial impact on Green Belt openness, the proposal would be slightly smaller than the fallback option.

5.14 The proposal would be constructed in stone to match that of the existing dwelling. In terms of the visual impact on openness, the proposal would appear no larger than the fallback. The narrow gaps that would be a feature of the fallback development would be imperceptible except at very close inspection, and they would make no contribution whatsoever to Green Belt openness.

5.15 Therefore, the proposal would not result in any additional harm to the openness of the Green Belt or conflict with the purposes of including land within the Green Belt as compared with what has already been approved and would be constructed if permission is withheld for the development now proposed.

5.16 Given the scale and location of the proposed closure of the gaps they would not be prominent or adversely affect the openness of character and appearance of the Green Belt.

5.17 If the applicants are unable to obtain planning permission for this extension, they would construct the already approved development instead. The very minor inconvenience of the narrow gaps between the approved extensions would be no deterrent to construction of the permitted development as a whole. Nevertheless, the applicant would prefer not to have the somewhat disjointed accommodation as approved, hence this application. As stated above the approved development would add very significantly to the value and quality of accommodation within the dwelling. It is therefore a certainty that it would be constructed if this application is unsuccessful.

5.18 Similar fallback arguments have been accepted as very special circumstances on appeals on numerous occasions. One particular example is Green Lane Farm in Bollington, Cheshire. A positive Lawful Development Certificate (application reference 18/2556M) was granted by Cheshire East Council (CEC) for a number of permitted development extensions at the property which were all detached and would be constructed in close proximity to each. A subsequent planning application (18/5585M) was submitted to close the gaps between the permitted development extensions, however CEC refused the application on the grounds that:

> 'the proposals would represent a 200% increase in floor space above the original dwelling and so would be an disproportion ate addition'.

5.19 An appeal was made against this decision (APP/R0660/D/19/3240413- see appendix EP1) and was subsequently allowed with the Inspector commenting on the planning balance as follows:

> 15. The proposal would be inappropriate development in the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that harm. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
>
> 16. The proposal would result in disproportionate additions to the original building and so would comprise inappropriate development in the Green Belt. In addition, there are adverse impacts on openness and the Green Belt purpose.
>
> 17. However, I give significant weight to the potential fallback position which may be implemented. This would have a greater effect on openness and would be an inferior design compared to the appeal scheme.
>
> 18. I find that this other consideration is of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and effect on openness and Green Belt purpose. As a result, very special circumstances exist to justify inappropriate development in the Green Belt

5.20 The fallback development is lawful; there can be no question that it would be implemented for the reasons set out earlier in this statement; and clearly the differential impacts between the proposed and the fallback

would be no more harmful in planning policy terms. Therefore, the availability of a realistic fallback is a material consideration that amounts to the very special circumstances required to outweigh the harm caused by granting planning permission for inappropriate development.

5.21 This is a material consideration that clearly outweighs the harm by reason of inappropriateness and the other harm that would be caused by the proposed development, because that harm would occur in any event (by the construction of the fallback development). In actual fact, in this particular case the proposed development would be slightly smaller than the permitted development. Therefore, the proposal would be slightly less harmful in terms of the spatial impact on the openness of the Green Belt, and so it must be preferable to the fallback option. There can be no reason to withhold planning permission for the development proposed.

5.22 The proposals would therefore meet the policy test set out in paragraph 150 of the Framework and planning permission should be granted.

6. Summary and conclusions

6.1 This householder application seeks full planning permission for the construction of a single storey rear extension at Ollersett Farm, which is equivalent to development that already benefits from planning permission courtesy of permitted development rights. This application proposes to modify the design of the permitted flat roofed orangery with a lean-to roof to match the existing lean to kitchen extension and to omit the gaps. However, the proposal would be no larger than the already approved orangery.

6.2 The site is located within the Green Belt as identified in the adopted local plan. It is acknowledged that the proposed extension would result in a disproportionate addition to the original building and therefore represents inappropriate development in the Green Belt. However, it has been demonstrated that there are other material considerations that comprise the very special circumstances to justify the approval of planning permission, as required by the statutory and policy tests.

6.3 The permitted development scheme for extensions is a valid alternative to the proposed development. The only difference is the proposed scheme subject to this application is an improved lean to design rather than the previously approved flat roof and to remove the gaps. The linking of the extensions would have no additional impact on the openness of the Green Belt because the proximity of the permitted development extension is such that it would also read as one single entity. The very narrow gaps between would contribute nothing at all to the openness of the Green Belt, and their retention cannot be justified.

6.4 This approach has been previously accepted at appeal on numerous occasions.

6.5 In summary, the proposal would not harm the character, appearance of openness of the Green Belt any more than the fallback position. As very special circumstances have been demonstrated the proposals would comply with the Green Belt policy test set out in paragraph 144 of the Framework. Planning permission should therefore be granted in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004.

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EP1

The Planning Inspectorate

Appeal Decision

Site visit made on 21 January 2020

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2020

Appeal Ref: APP/R0660/D/19/3240413
Green Lane Farm, Green Lane, Bollington SK10 5LG

- 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 Cooper against the decision of Cheshire East Council.
- The application Ref 19/2912M, dated 17 June 2019, was refused by notice dated 9 August 2019.
- The development proposed is alterations and extensions to an existing dwelling - re-submission of application ref. 18/5585M.

Decision

1. The appeal is allowed and planning permission is granted for alterations and extensions to an existing dwelling - re-submission of application ref. 18/5585M at Green Lane Farm, Green Lane, Bollington SK10 5LG, in accordance with the terms of the planning application Ref 19/2912M, dated 17 June 2019, 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: Location Plan; 3936_00_02 Rev A; 3936_00_01 Rev B; 3936_00_03 Rev A; 3936_00_13 Rev L; 3936_00_11 Rev J; 3936_00_12 Rev G.

    3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. The main issues in this appeal are:

    - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
    - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it; and
    - if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

3. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development. However, it lists certain forms of development which are not regarded as inappropriate. This includes 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.

4. This is generally reflected in Policy PG3 of the Cheshire East Local Plan Strategy 2010 - 2030 (CELP) adopted July 2017, which also provides a list of exceptions. In so far as they are relevant to this appeal, these are largely similar to the exceptions set out in the Framework.

5. There is no definition of disproportionate development within Policy PG3 or the Framework. However, the reasoning for saved Policy GC12 of the Macclesfield Borough Local Plan (MBLP) adopted January 2004 says that a proposal in the Green Belt will be considered to be 'disproportionate' if the development would result in an increased floorspace of more than 30% of the original dwelling.

6. There is no dispute between the main parties that due to the size of the proposed development, it would represent a disproportionate addition to the original dwelling, and I have no reason to disagree. Accordingly, the proposed development would comprise inappropriate development in the Green Belt. It would therefore be at odds with Policy PG3 of the CELP, Policy GC12 of the MBLP and paragraph 145 of the Framework in this regard.

Openness and Green Belt Purposes

7. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. This openness is an essential characteristic of the Green Belt and has a spatial and visual aspect. I recognise that the appeal site is within an area characterised by long open views and the site makes a major contribution to this part of the Green Belt.

8. It is evident that the proposed extension would result in a loss of openness to the Green Belt, because of its size and scale when compared with the existing dwelling. The proposed development would be visible from Green Lane and to a lesser extent from Long Lane. Although the proposal would be seen in the context of the existing dwelling, in spatial terms, it would add built form where there presently is none. Whilst the extent of the loss of openness would be limited, it would still be material.

9. Green Belt purposes that appear to be served by the designation of the appeal site within the Green Belt include, amongst others, checking unrestricted sprawl and safeguarding the countryside from encroachment. Considering my findings on the visual and spatial aspect, the proposal would impact on the related Green Belt purposes.

10. I therefore conclude that the proposal would lead to a loss of Green Belt openness and would impact on the purposes of including the land within the Green Belt. Therefore, it would be contrary to the relevant Green Belt guidance within the Framework.

Other Considerations

11. The appellant has drawn my attention to a planning permission and Lawful Development Certificate[1] in respect of a similar development to that proposed which could be implemented (the fallback position). One relates to alterations and extensions including the demolition of the outrigger, whilst the other relates to a single storey side and rear extension. The fallback position would differ from the appeal proposal in that it would create small gaps so as to not adjoin the various rear projections. Moreover, the fallback position is slightly larger than the proposal before me.

12. I recognise that the introduction of the parallel walls and gaps makes for an awkward arrangement in the fallback position which is unlikely to be as desirable as the appeal proposal. Moreover, such an arrangement would add to the costs and require additional building materials. However, the internal layout of the fallback position still appears to be able to function and it would provide substantial additional living accommodation. Moreover, given that an LDC and planning permission have been issued for the fallback position I consider it a strong possibility that they would be implemented were this appeal to fail.

13. The appeal site lies within an Area of Special County Value (ASCV) as set down in the MBLP. The proposal would amalgamate the fallback position, removing the awkward gaps and parallel walls to create a more integrated design. I recognise that these would only be fully appreciated in close views and, in quantum terms, the proposal would represent a sizeable extension. Nonetheless, it would be an improvement spatially, from the fallback position, in respect of the openness of the Green Belt. Moreover, it would also be an improvement visually, from the fallback position, in respect of the character and appearance of the host dwelling and surrounding ASCV.

14. I recognise that the appeal site lies on the edge of the Bollington Conservation Area (CA). As such, I have had regard to the special duty placed on decision makers in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I note that the Council consider the proposal would not harm the character and appearance of the CA and I have no reason to disagree. Given my findings on the fallback position in comparison to the design of the appeal proposal, I am satisfied that it would preserve the character and appearance of the CA.

Planning Balance

15. The proposal would be inappropriate development in the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that harm. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

16. The proposal would result in disproportionate additions to the original building and so would comprise inappropriate development in the Green Belt. In addition, there are adverse impacts on openness and the Green Belt purpose.

17. However, I give significant weight to the potential fallback position which may be implemented. This would have a greater effect on openness and would be an inferior design compared to the appeal scheme.

[1] 17/5447M and 18/2556M

18. I find that this other consideration is of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and effect on openness and Green Belt purpose. As a result, very special circumstances exist to justify inappropriate development in the Green Belt.

19. Although there would be conflict with the development plan, the balance of planning considerations in this case leads me to the view that the appeal should succeed.

Conditions

20. The Council has suggested conditions in the event of the appeal being allowed. These have been considered against the advice contained within the Planning Practice Guidance and I have amended the wording in the interests of clarity. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. A condition relating to materials is appropriate in the interests of the character and appearance of the area.

Conclusion

21. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Robert Walker

INSPECTOR