

Application Number: 20/00585/FUL

Proposal: Demolition of existing conservatory and construction of single storey / two storey rear extension and new first floor balcony to side of property.

Site: 4 Miller Hey, Mossley, Tameside, OL5 9PP

Applicant: Mr Mark Crane

Recommendation: REFUSE

Reason for report: Councillor Homer has requested that delegated powers are not exercised by the Head of Planning and that the application should be considered by the Speakers Panel (Planning). This is on the basis that the applicant considers the recommendation to be inconsistent with other planning applications that have been approved in the same area and that the proposed extension would not be detrimental to the area or exceed the requirements for building in the area.

1. APPLICATION DESCRIPTION

1.1 Planning permission is sought for the demolition of the existing conservatory extension to the rear elevation of No. 4 Miller Hey and the construction of a part two storey, part single storey rear extension. The application also seeks permission for the creation of a new Juliet balcony to the side elevation of the existing two storey side extension. The extension would be constructed using materials to match the existing.

2. SITE & SURROUNDINGS

2.1 The application site relates to a two storey semi-detached property situated on Miller Hey, which comprises a small cluster of 6 dwellings located off Regent Drive in Mossley. The site lies wholly within the designated Green Belt. To the rear (east) of the property there is an enclosed garden and to the south east of the dwelling is a detached garage, beyond which are surrounding open fields.

2.2 The dwelling itself is constructed with coursed natural stone elevations with a pitched roof. The dwelling has been extended with the addition of a two storey side extension and a single storey conservatory extension to the east facing rear elevation. An open wooden balcony platform is situated to the rear of the two storey extension.

3. PLANNING HISTORY

3.1 02/00288/FUL – Single storey side extension – Approved April 2002.

3.2 03/00926/FUL – Two storey side extension – Approved August 2003.

3.3 04/00126/FUL - Detached garage – Approved March 2004.

4. RELEVANT PLANNING POLICIES

4.1 Tameside Unitary Development Plan (UDP).

4.2 UDP Allocation – Designated Green Belt.

4.3 **Part 1 Policies:**

- 1.3 Creating a Cleaner and Greener Environment
- 1.5 Following the Principles of Sustainable Development
- 1.10 Protecting and Enhancing the Natural Environment

4.4 **Part 2 Policies:**

- H10 Detailed Design of Housing Developments
- OL2 Existing Buildings in the Green Belt
- OL10 Landscape Quality and Character

4.5 **Other Policies**

Tameside Residential Design Supplementary Planning Document (2010) (SPD).

4.6 **National Planning Policy Framework (NPPF)**

- Section 2 Achieving Sustainable Development
- Section 12 Achieving well-designed places
- Section 13 Protecting Green Belt Land
- Section 15 Conserving and Enhancing the Natural Environment

4.7 **Planning Practice Guidance (PPG)**

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5. PUBLICITY CARRIED OUT

5.1 Neighbour notification letters were issued in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement. A site notice was also displayed on 7th August 2020.

6. RESPONSES FROM CONSULTEES

6.1 None.

7. SUMMARY OF THIRD PARTY RESPONSES RECEIVED

7.1 A letter of support has been received with the signatures of the neighbours of four neighbouring properties. The comments received have been summarised below:-

- Proposal would be of a benefit to the area by re-developing already developed land to be in keeping with the surroundings.
- No concerns that the proposal would have more impact on the openness of the Green Belt land in which we live.
- The land in question currently has no 'openness' having been built on a decade ago.
- The proposed re-development represents only a very small amount of additional floor space for the existing building utilising already developed land in a different way and cannot be harmful to openness in any way
- No effect on Green Belt.

- A number of very special circumstances apply: shortage of more 4 bed houses in Mossley; development proposed is clearly significantly less injurious to the Green Belt than the numerous development, which are available to owners of No.4 Miller Hey under permitted development rights; inconsistent with decision taken at No.8 Miller Hey.

8. ANALYSIS

8.1 In accordance with the revised NPPF and the Tameside UDP, the main issues raised by the application relate to the following:-

- Principle of the development.
- Impact of the development on the character and appearance of the surrounding area.
- Impact on residential amenity.
- Impact on highway safety.

8.2 The above matters, and other considerations, are considered in more detail below.

9. PRINCIPLE OF DEVELOPMENT

Whether the proposal would amount to inappropriate development in the Green Belt

9.1 The site lies within the designated Green Belt to which the Government attaches great importance. As detailed in paragraph 133 of the Framework, the 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.

9.2 The Framework states that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. At paragraph 145, the Framework explains that a Local Planning Authority should regard the construction of new buildings as inappropriate development within the Green Belt, with an exception being, amongst other things, an extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Substantial weight is 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 resulting from the proposal, is clearly outweighed by other considerations.

9.3 Locally, Policy OL2 of the Tameside UDP, which relates to the development of existing buildings within the Green Belt, is in line with the Framework and states that approval will only be given for the extension, alteration or replacement of existing buildings within the Green Belt, where:-

“(b) any extension of the building does not result in disproportionate additions over and above the size of the original building (or in the case of a replacement dwelling, the new building is not materially larger than the one it replaces)...

(e) the form, bulk, general design and external materials of the building is in keeping with its surroundings and retains the inherent character and scale of the original building.”

9.4 The UDP does not define the term 'disproportionate', nor does the Framework. It is therefore a matter of planning judgement on a case-by-case basis.

9.5 The original dwelling comprised a two-bedroom, two-storey semi-detached dwellinghouse and so was modest in its size and appearance. The property was subsequently enlarged

with a two storey side extension and single storey conservatory extension to the rear that now form the existing dwelling.

- 9.6 To understand the general increase in the scale and proportions of the dwelling, officers calculated the approximate volume of the original building, the volume of the existing two storey side extension (which is to be retained), and the approximate volume of the proposed two storey and single storey rear extension. This is outlined below:-

Original Volume = approximately 309m³ (One third of original volume = 103m³)

Existing two storey side extension = 130m³

Proposed part two storey / part single storey rear extension = 131m³ (96m³ two storey + 35m³ single storey)

Original Volume (309m³) + Existing and proposed volume (261m³) = 570m³
= approximately 84% increase in volume.

- 9.7 The above calculations clearly indicate that the extensions now proposed, in addition to those already constructed, would have an overall volume and floor area that would near double the size of the original building. It is considered that the proposed extension would amount to a disproportionate addition to the original building, which fails to meet the exception listed under paragraph 145 (c) of the Framework. On this basis, the scheme would represent 'inappropriate development' in the Green Belt and would conflict with the Framework and UDP Policy OL2. It is therefore harmful to the Green Belt by definition and substantial weight must be attached to the harm arising due to the inappropriate nature of the development.

Effect on Openness

- 9.8 Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework.
- 9.9 The application site forms part of a small cluster of six properties known as Miller Hey. No.4 Miller Hey sits on the southern edge of this cluster of development adjacent to the open fields to the south, where the openness of the Green Belt can be widely appreciated. The rear of the application property (where the development is proposed) is not particularly visible from within the immediate public realm and surrounding public footpaths as the rear of the site is largely screened by the changing ground levels and trees / hedgerows to the site boundaries.
- 9.10 In a recent appeal decision (APP/R0660/W/18/3193413), a Planning Inspector made reference to 'openness' as having both a visual and spatial dimension and that the absence of visual intrusion does not, in itself, mean there is no impact on the openness of the Green Belt.
- 9.11 The proposal would increase the mass and bulk of the building both at first floor level and at ground floor level. The resultant building would be deeper and the overall scale, footprint and proportions of the dwelling would be increased. As a result of the increase in built form, it is considered that the enlarged building would heighten the urbanised nature of the existing site and, as a result, would harm the openness of the Green Belt in spatial terms.
- 9.12 Given that the rear of the property would be largely screened from view and only prominently visible from the south and elevated ground from afar, it can be accepted that in visual terms, the effect on openness would be more limited than would otherwise be the case. Nevertheless, harm still arises to the Green Belt.
- 9.13 Although the application must be considered in the context of existing circumstances the mature hedgerows and trees are not protected from future removal. If these were removed,

which cannot be assumed, this would exacerbate the impact of the proposals on openness. Therefore, although a concern, only very limited weight can be given to this.

- 9.14 To conclude, although the loss of openness that would be directly attributable to the application scheme would not be substantial in visual terms, it would add to the overall bulk of the property in spatial terms. Therefore for the above reasons the proposal would cause moderate / limited harm to the openness of the Green Belt in addition to the harm attributed by reason of its inappropriateness, of which is attached substantial weight.

10. CHARACTER OF THE SURROUNDING AREA

- 10.1 Part 1 Policy 1.3 and Policy OL10 of the UDP state that all development, including within the countryside, must achieve a high quality design, which is sensitive to the character of the local area and surroundings. High standards of siting, design, materials and landscaping will be expected.
- 10.2 Policy OL2(e) of the UDP requires the form, bulk, general design and external materials of extensions to be in keeping with its surroundings and retain the inherent character and scale of the original building. In more detail, Policy RED1 of the Residential Design SPD states that an extension should apply an architectural style that reflects the existing dwelling and that the scale and mass of the dwelling must not be significantly altered:- *“Extensions should be subordinate to the original building and not result in the significant external remodelling of a dwelling”*.
- 10.3 The proposal is for a part two storey, part single storey extension to the rear of the existing dwelling. With regard to RED1 and RED4 of the SPD, Officers acknowledge that proposal would replicate existing design features (materials, fenestration, and roof design) and so would generally appear in keeping with the architectural style of the existing house and surrounding properties. In terms of overall scale, it can be noted that viewed in combination with the existing side extension, the proposal would completely enclose the side and rear elevations of the original dwelling and so would represent a large addition to the original building; however this would not be considered detrimental to the character and appearance of the existing dwelling.
- 10.4 Overall, the proposed extension is considered compliant with Policies 1.3 and H10 of the UDP and the Residential Design Supplementary Planning Document in respect of visual amenity.

11. RESIDENTIAL AMENITY

- 11.1 As part of its underlying drive to promote sustainable development, paragraph 127(f) of the revised National Planning Policy Framework states that a high standard of amenity should always be sought for all existing and future occupants of land and buildings. Policy H10 of the UDP also states that new development should have no unacceptable impact on the amenity of neighbouring properties through noise, loss of privacy, overshadowing or traffic.
- 11.2 In order to prevent overshadowing and / or a reduced outlook for neighbours, the Council limits the size of single storey rear extensions using a 60 degree line rule and two storey rear extensions using a 45 degree line rule. If a neighbour has an existing extension and this is the nearest habitable room window, the rule should be applied from the extension. To further protect the privacy of neighbours, Policy RED2 requires minimum separation distances between two directly facing habitable room windows (18m) and an existing window and a blank wall (10m – single storey height / 14 – two storey height).

- 11.3 In this instance, the proposed single storey rear extension would not conflict with the 60 degree angle rule when measured from the nearest rear facing habitable room windows to No.3 Miller Hey, compliant with Policy RED3.
- 11.4 No properties are situated within close proximity to the rear of No.4 Miller Hey, or to the side of the property. As a result, the proposal complies with the requirements of Policy RED2.
- 11.5 In light of the above, Officers are satisfied that the proposal would not result in harm to the residential amenities of the neighbouring occupiers in respect of light, outlook or privacy compliant with Policy H10 of the UDP and the Residential Design SPD.

12. HIGHWAY SAFETY

- 12.1 The scheme would not result in the loss of parking. As such the scheme is considered to be acceptable in relation to Highway Safety, compliant with Policy RED12 of the SPD.

13. OTHER CONSIDERATIONS

Application of the relevant section of the National Planning Policy Framework

- 13.1 The applicant has argued that when considering the principle of the development, Tameside Metropolitan Borough Council (TMBC) has mischaracterised the proposed development and is incorrect to consider the proposal as 'the extension or alteration of a building' under paragraph 145(c) and should rather be considering the proposal under the exception detailed within paragraph 145 (g) since the proposal utilises land which has already been developed into a conservatory, patio and 'second storey balcony'. Therefore, the proposal "simply amounts to redevelopment of previously developed land within one residential plot where any 'openness' has long ceased". For reference, Paragraph 145(g) relates to:-

"limited infilling or the partial or complete re-development of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- *Not have a greater impact on the openness of the Green Belt than the existing development; or*
- *Not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority"*

- 13.2 Officers consider the assessment of the proposal against 145(g) to be incorrect. In the view of Officers, the proposal clearly represents an extension to an existing building and so should therefore be assessed against 145(c). Whilst Officers acknowledge the argument presented, the application should be considered on the basis of 145(c).

A case for Very Special Circumstances (VSCs)

- 13.3 As stated in paragraph 144 of the Framework, VSCs will not exist unless the potential harm to the Green Belt by reason of its inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The applicant has put forward the following as other considerations:-

13.4 Previous decisions (inconsistency)

It has been argued that if planning permission were to be refused for this application, it would be inconsistent with TMBCs decision in 2017 to retrospectively approve an application at No.8 Miller Hey (neighbouring property) to split the one dwelling into two separate residential units, in addition to its previous extensions.

- 13.5 Officers acknowledge the previous development, which the applicant has cited above. However, each application is assessed on its own merits and based on its own site specific circumstances. Since the approval of development to No.8 Miller Hey (2009-2011), National planning policy has evolved – the Residential Design SPD has also been introduced, which now provides clear guidance as to scale, mass etc. The previous was considered subservient and not dominant, so it was concluded not to be a disproportionate addition.
- 13.6 In this particular case, the current extension now proposed in addition to those already constructed, would in the view of Officers comprise a disproportionate addition to the original house. Paragraph 145(c) is clear in stating that the size of an extension or alteration should be considered against the size of the original building, as opposed to the existing building. As a result, the proposal is by definition inappropriate development in the Green Belt, which should not be approved except in very special circumstances. In this instance, the previous extension and subdivision of No.8 Miller Hey does not clearly outweigh the harm identified.
- 13.7 In the view of Officers, it is important to note that whilst the scale of the development would not be detrimental to the appearance of the dwellinghouse (in terms of character and visual amenity), it would result in moderate harm to the openness of the Green Belt, by reason of the additional bulk and mass - heightening the density and urbanised nature of the site, which would be visible from longer ranging views.
- 13.8 **Permitted development as a fall-back position**
The applicant has outlined that the following development, should the current application be refused, could / will be constructed under permitted development:-
- “The construction of a large additional garage building up to 4 m in height and larger in floor space than the incremental parts of the Proposed Re-Development.
 - The conversion of the existing garage for incidental use as a playroom or office space.
 - From Monday 31 August 2020 the addition of an additional storey of up to 3.5m above the original Property, which would consist of significantly more floor space and volume (likely two additional bedrooms and a bathroom) than the Proposed Re-Development (subject only to the prior notification procedure which, having taken advice, the Applicant is confident no issues should arise under).
 - The construction of additional outbuildings in the garden of the Property including for leisure use.
 - The construction of a porch at the rear of the Property underneath the existing balcony structure (but over the existing patio area).”
- 13.9 It is correct that Schedule 2 of the Town and Country Planning (General Permitted Development) Order (England) 2015 (as amended) makes provision for some types of development without requiring planning permission. Part 1 enables “*Development within the curtilage of a dwellinghouse*” and includes development such as minor extensions and the erection of outbuildings.
- 13.10 However, the site location plan submitted with the application suggests the curtilage is only of a size that would allow for very limited opportunities for further extensions under these provisions. Whilst it is noted that other adjacent land is owned by the applicant it is questionable whether this constitutes part of the dwelling’s curtilage because it is edged in blue. This therefore places some doubt as to whether some of the potential fall-back positions referred to above can actually be carried out without planning permission.
- 13.11 In any case, the degree of weight to be given to a fall-back position depends on whether or not these would be equally or more harmful than the scheme proposed.

13.12 In consideration of the above, the outcome of the following appeal decisions are considered to be material:-

- Referring back to a recent appeal decision (APP/R0660/W/18/3193413), a Planning Inspector made reference to 'openness' as having both a visual and spatial dimension and that the absence of visual intrusion does not, in itself, mean there is no impact on the openness of the Green Belt. Though the application related to a replacement dwelling (and therefore subject to a different exception under paragraph 145 of the Framework), the test on the openness of the Green Belt is considered to be broadly similar. In the above appeal decision it was found that whilst the material fall-back development, which broadly comprised of single storey extensions with a modest increase at first floor, had a greater impact on the spatial dimension of the openness of the Green Belt (through having a greater volume and occupying more three dimensional space / footprint than the proposed dwelling), the impact it would have on the visual dimension would be significantly less. This is for the reason that much of the development would be single-storey and therefore would appear less intrusive and prominent within the landscape. By reason of their height and overall size, the fall-back extensions also appeared subsidiary to the main dwelling – reducing the overall bulk and dominance. As a result, despite the greater volume and greater footprint, the fall-back position was considered to be less harmful than that of the proposed replacement dwelling, which comprised a greater proportion of first floor development.
- Similarly, as found in appeal decision APP/G4240/D/19/3235237, the appellant had secured a Certificate of Lawful Development for single storey side and rear extensions to the building, an alteration to the roof and the erection of an outbuilding for use as a home gym and store. This was in addition to a recently expired 'Prior Notification for a Larger Home Extension'. These matters were therefore considered to be viable fall-back positions by the Planning Inspector. The Inspector concluded, however, that the fall-back position differed from the appeal proposal in that the form of development would be restricted to single storey elements, with some limited alteration to the roof. Though the outbuildings and extensions proposed under permitted development would be of a lesser combined volume and would be more sprawling than the proposed scheme, they would be subordinate in size and would not add to the bulk of the original property. For these reasons the proposal seeking planning permission was concluded to have a greater impact on openness.
- In appeal decision APP/L3245/D/19/3222553 (which relates to the erection of a two storey side extension to a dwelling house), the Planning Inspector found the fall-back proposal to be less harmful to the openness of the Green Belt than the proposed development. Evidence submitted referred to potential fall-back options in the form of development that might be implemented without seeking planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) to construct a different form of development at the appeal site. However, the Planning Inspector considered there to be limited information within the evidence regarding the detail of such permitted development. In any event, it was concluded by the Planning Inspector that even if the construction of an extension under permitted development was possible in the location of the appeal scheme, the resultant structure would be much smaller than the appeal scheme, due to the single storey restriction specified in the GPDO, resulting in a reduced height and volume. Therefore, the Planning Inspector gave limited weight to the potential permitted development fall-back.

13.13 Reflecting on the above, it can be understood that permitted development as a fall-back position is a material consideration. However, the nature and form of the fall-back development and the relationship it bears with the main dwelling, when considering the proposal under paragraph 145(c) and on the openness and permanence of the Green Belt, is very important.

13.14 In the view of Officers, having regard to the above, the identified fall-back position is considered to be less harmful to the openness and permanence of the Green Belt than the proposed combined two storey and single storey rear extension, due to the single storey and subordinate nature of the development. The bulk, depth and mass of the existing dwelling would be significantly increased by the current proposal and due to the wrap-around form of the development it would engulf the form and proportions of the original dwelling. Though not overly prominent, the dominance of the proposal would be appreciable from outside of the site, which would result in harm to the openness of Green Belt, as identified earlier in the report. Officers are unconvinced that the permitted development fall-back position would cause significantly greater harm to the character and appearance of the dwelling or surrounding area than the current proposal. Consequently, for these reasons considered cumulatively, the fall-back position carries limited weight in favour of the proposal.

13.15 **Lack of larger housing in the Borough**

The application proposed is for an extension to existing development within the Green Belt. Whilst there are some positives in creating one larger dwelling it would represent a very limited contribution to larger housing in the Borough. It is therefore afforded limited weight and fails to independently, or in combination with the fall-back positions referred to above, clearly outweigh the identified harm.

14. CONCLUSION

14.1 The development constitutes inappropriate development and would cause harm to openness of the Green Belt. Paragraph 144 of the Framework states that substantial weight should be given to this identified harm.

14.2 As set out above, other considerations put forward in support of the proposal attract limited weight, and does not clearly outweigh the harm identified to the Green Belt by reason of its inappropriateness and the harm identified to its openness. As such, the very special circumstances required to justify inappropriate development do not exist. In conclusion, proposals would conflict with the overarching aims and objectives of the Framework, and Policy OL2 of the Tameside Unitary Development Plan (2004).

15. RECOMMENDATION:

15.1 Refuse, for the following reason:-

By reason of its scale, bulk and massing, the proposed extension represents a disproportionate addition over and above the size of the original building. It therefore comprises inappropriate development within the Green Belt which is, by definition, harmful and should not be approved except in very special circumstances. It has not been demonstrated that the harm to the Green Belt caused by its inappropriateness is clearly outweighed by other considerations. The proposal is therefore contrary to UDP Policy OL2 and the National Planning Policy Framework, in particular paragraphs 133, 134, 143, 144 and 145.