

Appeal Decision

Site visit made on 23 January 2017

by David Cross BA (Hons), PGDip, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 March 2017

Appeal Ref: APP/R0660/W/16/3161721

Stone Cottage, 14 Summerhill Road, Prestbury, Macclesfield, Cheshire SK10 4AH

- 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 Howard Bilton against the decision of Cheshire East Council.
 - The application Ref 16/0724M, dated 12 February 2016, was refused by notice dated 17 June 2016.
 - The development proposed is demolition of an existing part single-storey, part two-storey, detached dwelling and the construction of a two-storey detached replacement dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Howard Bilton against Cheshire East Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have also dealt with another appeal (Ref: APP/R0660/W/16/3161722) on part of this site. This appeal is the subject of a separate decision.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposal is inappropriate development in the Green Belt;
 - The effect on the openness of the Green Belt and the purposes of including land within it; and,
 - If the development is inappropriate, 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.
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Reasons

Inappropriate Development

5. The site is located within the Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they are the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
6. The proposal relates to the replacement of one dwellinghouse with another and therefore the new building would be in the same use as the one it would replace.
7. As to whether the replacement would be materially larger, the appellant has provided measurements in relation to the dimensions of the original dwelling and the proposed replacement. I acknowledge that in relation to volume, width and depth, the proposed dwelling would be smaller than the original dwelling. Furthermore, the increase in footprint would be very limited. However, the proposal would lead to an increase in height by approximately 1.1m and an increase in floorspace by approximately 50%.
8. Notwithstanding the above measurements, the assessment of whether a building is materially larger is not simply a mathematical balancing exercise but should be an assessment of the relationship of the buildings to each other. I consider that the increase in height would be readily apparent, particularly due to the consistent ridge line and massing of the proposed dwelling compared to the more variable roofline of the existing dwelling. The significant increase in floorspace is also reflected in the increase in the scale and form of the proposed building compared to the extant building. The effect of the increase in proportions is clearly illustrated in cross section B-B of drawing PLA1 04.
9. Due to the increase in height and floorspace engendered by the proposal and the effect on the scale and form of the proposal in comparison with the original building, I take the view that the proposed dwelling cannot reasonably be considered to be anything other than materially larger.
10. I have been referred to an appeal decision¹ and subsequent judgement² in relation to a property named *Castleneau*. In that case, the Inspector considered the physical factors indicating the relative size of buildings and used this as a basis for reaching a judgement. This approach was supported by the High Court judgement. I consider that this reflects my approach on this issue.
11. I have also been referred to extant planning permissions for an approved replacement dwelling on the site and extensions to the existing dwelling. However, the relevant exception in paragraph 89 of the Framework is clear in that it relates to a comparison to the building being replaced, rather than one which could be built. I have therefore given no weight to the approved replacement dwelling or extensions in my consideration of whether or not the appeal scheme would be inappropriate development in the Green Belt.

¹ Appeal refs: APP/M3645/A/14/2220087 & APP/M3645/A/14/2226829

² *Tandridge District Council v Secretary of State for Communities and Local Government*, Jason Syrett [2015] EWHC 2503 (Admin)

12. For the reasons set out above, the proposed building would be materially larger than the one it would replace. It would therefore comprise of inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.
13. Policy GC1 of the Macclesfield Borough Local Plan 2004 (LP) seeks to resist new building within the Green Belt unless there are very special circumstances, subject to a number of specific exceptions. However, Policy GC1 states that the replacement of existing dwellings will be assessed against Policy GC11, which is not a saved policy. I have therefore given very little weight to Policy GC1 in my consideration of this matter.
14. The Council also refers to Policy PG3 of the emerging Cheshire East Local Plan (CELP). Policy PG3 states, amongst other things, that the construction of new building in the Green Belt is inappropriate subject to a number of exceptions. Although these exceptions include the replacement of a building with one that is not materially larger, I have concluded that the replacement dwelling is materially larger than the dwelling it would replace and would therefore not comply with the exceptions of this policy. The Council states that the CELP has been through an Examination in Public and it has been confirmed that the wording of Policy PG3 is in accord with the Framework. Therefore, with regard to paragraph 216 of the Framework, I have given moderate weight to this policy.

Openness and Green Belt Purposes

15. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to prevent urban sprawl by keeping land permanently open. The proposal involves the demolition of the existing dwelling, and its replacement with a new dwelling. In terms of volume and the width of elevations, the new dwelling would be smaller than that it would replace. In terms of footprint, the new dwelling would only be marginally larger. However, the new dwelling would be higher than the building it would replace. It would also be serviced by an enlarged driveway which would add to the surface area of built development.
16. Whilst it is not possible to compare precisely the effect on openness of the proposed dwelling due to the differences with the building it would replace, bearing in mind the height and extent of the proposed works I conclude that, overall, the scheme would lead to moderate harm to the openness of the Green Belt.

Other Considerations

17. The existing dwelling is a relatively nondescript building which does not reflect the substantial and imposing dwellings located elsewhere along Summerhill Road. In some respects, the replacement dwelling would be of a scale and design that complements the nearby dwellings, and I note a local resident considers it would make a positive and tasteful contribution to housing on Summerhill Road. However, the existing building is not visually intrusive due to its limited height, its setting within the sloping site topography and the degree of screening around the site. Similarly, the proposed dwelling would also not be comparatively prominent within the landscape due to the topography and screening of the site. Therefore, whilst I consider that the proposed dwelling would be a more attractive and coherent design than the

one it would replace, the benefit to the character and appearance of the area would be limited.

18. The appellant has referred to extant planning permissions for a replacement dwelling³ on the site and for extensions and alterations to the existing dwelling⁴. In both cases, I note that the ridge height of the appeal proposal would be higher than the extant approvals, but also that the appeal proposal would be smaller in other respects. Due to the relative ridge heights and for the reasons stated above, I consider that the appeal proposal would be materially larger than these extant permissions. However, whilst I consider that the design of the appeal proposal does have some merit compared to the extant permissions, any positive effect on character and appearance of the area would be limited due to the well-screened location of the proposals within the landscape. As fallback positions, I consider that the weight to be given to the extant permissions in support of the proposal is therefore very limited.
19. I note that the appellant has obtained a Certificate of Lawful Use or Development⁵ (CLUD) for the erection of a swimming pool outbuilding and hardstanding, which would be a significant building within the site with a subsequent detrimental effect on the openness of the Green Belt. I have had regard to the High Court decision⁶ referred to by the appellant which confirms that this is a material consideration as a fallback position. It also confirms that the weight to be attached to this is a matter of planning judgement. However, notwithstanding the endeavours of the appellant in applying for the CLUD, I have no substantive evidence to indicate that there is a significant probability that the swimming pool building would be constructed should this appeal be dismissed. This limits the weight that I can attach to this as a fallback position.
20. The appellant also claims that the proposal represents sustainable development under paragraph 7 of the Framework. In relation to the economic role, the site would contribute to employment during construction. However, as the proposal relates to a single dwelling these benefits would be very limited. I consider that the identified social and environmental benefits in relation to the provision of family housing and proximity to services are not materially different to those arising from the existing dwelling.
21. In support of the appeal, my attention has been drawn to a planning permission granted for a dwelling at 12 Summerhill Road⁷, which the appellant states was assessed using the same 'materially larger' test. I have been provided with a copy of the Officers report and the decision notice. However, I note that this decision is from 2007 and pre-dates the publication of the Framework. The proposal was also assessed against Policy GC11 of the LP which has not been saved. Whilst there may be some similarities between the appeal proposal and that at 12 Summerhill Road, I am not aware of all of the considerations that applied in that case, such as the characteristics of the house being replaced. For this reason, as well as the age of the decision and the changed policy context, I consider that it should not be seen as setting a precedent and does not weigh positively in favour of the current proposal.

³ Council ref: 15/1202M, Dated 16 June 2015.

⁴ Council ref: 15/1201M, Dated 16 June 2015

⁵ Council ref: 13/2116M, Dated 3 November 2015

⁶ Zurich Assurance Ltd (t/a Threadneedle Property Investments), R (on the application of) v North Lincolnshire Council & Anor [2012] EWHC 3708 (Admin)

⁷ Council ref: 06/3198P, Dated 20 February 2007.

Overall Balance and Conclusion

22. The appellant states that the proposal is not inappropriate development as the new building would not be materially larger than the building it replaces. However, for the reasons stated previously, I consider that the replacement dwelling is materially larger than that it would replace and would therefore be inappropriate development within 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. I consider that the proposal would lead to moderate harm to the openness of the Green Belt, and that harm by reasons of inappropriateness is not clearly outweighed by other considerations. I conclude that very special circumstances to justify the proposal do not exist.
23. I have attached very little weight to Policy GC1 of the LP and it has not been a determinative factor in my consideration of this appeal. I have afforded moderate weight to Policy PG3 of the emerging CELP and the proposal would conflict with this policy. The proposal is also contrary to the provisions of the Framework in relation to the protection of the Green Belt. Material considerations do not indicate that the proposal should be determined otherwise than in accordance with the emerging policy and the Framework.
24. For the reasons given above, and having regard to all other matters raised, it is concluded that the appeal is dismissed.

David Cross

INSPECTOR