



Appeal Decision

Site visit made on 18 June 2018

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 17 August 2018

Appeal Ref: APP/A0665/W/17/3181063

Street Hey, Street Hey Lane, Willaston, Neston CH64 1SU

- 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 and Mrs Kewin against the decision of Cheshire West & Chester Council.
 - The application Ref 17/02058/FUL, dated 4 May 2017, was refused by notice dated 19 July 2017.
 - The development proposed is change of use of residential outbuilding into an independent dwelling, consolidating existing dwelling as a residential outbuilding.
 - This decision supersedes that issued on 8 December 2017. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of residential outbuilding into an independent dwelling, consolidating existing dwelling as a residential outbuilding at Street Hey, Street Hey Lane, Willaston, Neston CH64 1SU in accordance with the terms of the application, Ref 17/02058/FUL, dated 4 May 2017, subject to the conditions set out at the Schedule attached to this Decision.

Procedural Matter

2. The original appeal decision was determined on 8 December 2017; however, this decision was successfully challenged in the High Court and the Inspector's decision quashed. The starting point for this appeal is that the previous decision and the conclusions reached have no legal effect and the merits of the case must be determined as if they had not been considered previously. I have dealt with the appeal on this basis and, as noted above, my decision replaces the previous decision.
3. Since the determination of the original appeal, a revised National Planning Policy Framework (the Framework) was published in July 2018. The main parties have been consulted on the implications of the new Framework for the current appeal. I have taken into account the revised Framework in my reasoning below.

Main Issues

4. The main issues in this case are:
 - Whether or not the proposal is inappropriate development in the Green Belt;

- The effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- The effect of the proposal on the character and appearance of the area;
- Whether or not the proposed development would represent a suitable and accessible site for new housing in the light of national and local policies; and
- If the proposal 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

Whether or not the proposal is inappropriate development in the Green Belt

5. The appeal site comprises of a large outbuilding situated within part of a garden of a substantial semi-detached dwelling within an area designated as Green Belt. The host dwelling is positioned to the east side of Street Hey Lane and is surrounded by a large garden to the north, west and south. An existing smaller outbuilding immediately to the north-west of the existing dwelling has permission¹ to be converted into a separate dwelling. At the time of my site visit this permission had not been implemented.
6. By virtue of paragraph 145 of the Framework the construction of new buildings in the Green Belt is inappropriate subject to a number of specified exceptions one of which is the re-use of buildings provided that the buildings are of permanent and substantial construction and provided that they preserve the openness of the Green belt and do not conflict with the purposes of including land in Green Belt. This exception has not altered from the previous version of the Framework.
7. The building in question is in use as a gym, office and other leisure purposes ancillary to the host property and the structure is now of a permanent and substantial construction. Consequently, in principle the proposal would not be inappropriate development unless it would have a greater impact on Green Belt openness and purposes. My conclusions on the next issue will, therefore, determine whether or not the development is inappropriate.

Openness of the Green Belt and Green Belt Purposes

8. 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. The proposal would involve alterations to the elevations such as changes to windows and doors; however, no other alterations or extensions are proposed. Consequently, the resultant dwelling would not have a greater impact on openness than the existing outbuilding. Neither would it have a greater visual impact than the existing building.
9. The change of use would result in the creation of a domestic curtilage around the building. The plans indicate that the dwelling would have an extensive domestic curtilage including an outdoor swimming pool and the existing outbuilding which already has consent for a change of use to residential.

¹ Application reference 15/04635/FUL

10. The area immediately surrounding the outbuilding subject of the appeal is rough ground; however, the remainder of the proposed curtilage consists of a swimming pool, patio and lawn with landscaping along the boundaries. Consequently, the appeal site has the appearance of a domestic garden in contrast to the open grazing land in the vicinity.
11. There would be an extension to the existing access drive leading to a parking/turning area in front of the property and there is also the potential for hard and soft landscaping and domestic paraphernalia associated with the newly created dwelling which could impact on openness. However, the appeal site lies within an existing garden and consequently these changes could take place on the site currently without the benefit of planning permission.
12. It has been proposed that the outbuilding which had previously gained permission to be converted to a dwelling would revert to being an outbuilding. Consequently, the proposal would not increase the number of dwellings on the land in the appellants' ownership. A section 106 Unilateral Undertaking (UU) has been submitted in order to provide a mechanism to enable this to happen.
13. Without the UU it would be possible to enable three domestic curtilages on the landholding. However, the land is already domestic curtilage and due to its extensive size and the nature of domestic paraphernalia, I am not convinced that the creation of three domestic curtilages would impact on openness. Furthermore, due to the presence of the fence and landscaping to the boundaries the visual impact of the proposal when viewed from the road would be limited. Consequently, I do not consider that the UU is required and I am, therefore, unable to take it into account in my Decision.
14. I acknowledge that any extensions to the appeal building would have an impact on openness and consequently, it is appropriate to restrict permitted development rights on the dwelling. With such a condition, the proposal would not have a greater impact on openness.
15. As the appeal building is situated within domestic curtilage, the proposal would not extend the built form into the countryside or result in the urbanisation of land. As such the proposal would not conflict with the purpose of safeguarding the countryside from encroachment. Furthermore, there is no evidence before me which indicates that the proposal would conflict with any of the other purposes set out in paragraph 134 of the Framework.
16. For the reasons stated, the proposal would not be inappropriate development in the Green Belt. Consequently, the proposal does not have to meet the very special circumstances test. It would not, therefore, be contrary to Policy Strat 9 of the Cheshire West and Chester Local Plan (CWCLP) (Part One) 2015 or to the Framework.

Character and Appearance

17. The area is characterised by large dwellings set in substantial plots situated off Street Hey Lane. These dwellings are surrounded by open grazing land which together with the roadside trees and hedgerows contributes to the rural character of the area.
18. The site currently forms part of a domestic garden and is well screened by the boundary fence along the lane and landscaping to the other boundaries. The proposal would only result in limited alterations to the elevations. The proposal

would result in the creation of a separate domestic curtilage; however, the domestic appearance of the existing garden would be retained. Furthermore, views of the property and the domestic curtilage would be limited from the road due to the boundary fence and vegetation on the boundaries. Moreover, the proposal would not extend the existing domestic curtilage into the countryside. Consequently, I do not consider that the proposal would have a greater effect on the character and appearance of the area than the existing outbuilding.

19. For the reasons stated, the proposal would not have a harmful effect on the character and appearance of the area or the countryside. No conflict would, therefore, arise with Policy Strat 9 of the CWCLP.

Whether a suitable and accessible site for housing

20. Policy Strat 9 of the CWCLP seeks to protect the intrinsic character and beauty of the Cheshire countryside by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. The policy does allow for the reuse of existing rural buildings, particularly for economic purposes, where buildings are of permanent construction and can be reused without major reconstruction. Additional restrictions will apply to development in the Green Belt in line with the Framework.
21. Paragraph 78 of the Framework directs housing to areas where it will enhance, or maintain the vitality of rural communities and isolated new homes are to be avoided unless there are special circumstances. This approach has remained broadly the same as the previous version of the Framework. Hence, the approach is reflected in Policy Strat 1 of the CWCLP which indicates, amongst other things, that new housing should be located where there is accessibility to services and facilities and with good connections to public transport. Policy Strat 2 seeks to direct new development to locations identified in the settlement hierarchy.
22. The appeal site lies outside the village of Willaston but within a small group of houses along Street Hey Lane. It would take around 20 minutes to walk to the centre of Willaston which has a range of shops and facilities including public transport; however, the village would be easily accessible by bicycle. Furthermore, it would only be an approximately five minute walk along Street Hey Lane to access a bus service which can be picked up at the end of the Lane which provides access to a number of destinations including Hooton Station. Consequently, I consider that future occupiers would have access to a range of means of transport in order to meet their day to day needs.
23. For the reasons stated, the proposal would be a suitable and accessible site for new housing and so would not conflict with the Framework or Strat 1, Strat 2 or Strat 9 of the CWCLP.

Other matters

24. Attention is drawn to the fact that a number of protected trees have been removed from the site. However, the appellants' submissions show that permission was granted for their removal and that replacement planting will take place in accordance with the permission.

25. Concerns are raised by third parties that the historical integrity of the host property would be lost. However, the proposal does not involve any works to the host property itself and there is no evidence before me that the house or its garden is either a designated or a non-designated heritage asset or that has any historical significance.
26. Although I note the lane is popular with walkers and horse riders, the amount of additional traffic arising from the proposal would not result in harm to highway or pedestrian safety.
27. A number of third parties are concerned that due to the history of planning applications on the site that the proposal is an attempt to circumvent the planning system to enable the development of a house where one would not normally be permitted and that the scheme would set a precedent for similar developments in the area. However, no evidence is before me of specific sites or areas where this set of circumstances may be repeated. In any event, I have determined the appeal proposal on its own merits.
28. Residents point out that the plans do not show the pool and other outbuildings that are present on the site; however, I am satisfied that this has not affected the determination of the proposal in any way.
29. Concerns are raised regarding how the Council carried out consultation; however, there is no evidence before me that anyone has been disadvantaged as a result.

Conditions

30. In addition to the standard time condition, I have imposed a condition specifying the plans as this provides certainty. A condition requiring details of landscaping is required in the interests of character and appearance. For reasons of highway safety a condition is required to ensure the provision of parking spaces on the site before the dwelling is first occupied.
31. The Planning Practice Guidance indicates that the restriction of permitted development rights should be exceptional. Due to the potential impact of any further extensions, garages or outbuildings on the openness of the Green Belt, I consider that it is necessary to restrict these elements.

Conclusion

32. I have concluded that the proposal would not be inappropriate development in the Green Belt or result in harm to the openness of the Green Belt, Green Belt purposes or the character and appearance of the area. I have also concluded that the proposal would be on a suitable site for housing. There are no other material considerations which would outweigh these matters and so the appeal should be allowed.

Caroline Mulloy

Inspector

Schedule

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: Site Location Plan Drawing No 0379-01/01; Proposed Site Layout Drawing No 0379-01/02; Proposed Floor Plans and Elevations-Outbuilding Drawing No 0379-01/03; Existing Ground Floor Plan Drawing No L(91) 002 Rev P4; Existing Elevations Drawing No L(91)012 Rev P4; Proposed elevations and setting out plan drawing no 2017 048 002 Rev 02; and Proposed Plans and Elevations Drawing No 2017 048 001 Rev 02.
- 3) No development shall commence until details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) Boundary treatments and means of enclosure;
 - ii) Details of hard surfacing areas;
 - iii) Planting plans;
 - iv) Written specifications (including soil depths, cultivation and other operations associated with plant and grass establishment);
 - v) Schedules of plants noting species, planting sizes and proposed numbers/densities; and
 - vi) An implementation programme.

The Landscaping works shall be carried out in accordance with the approved details and the agreed implementation plan. The completed soft landscaping scheme shall be maintained for a period of 5 years from the date of planting. During this period any trees or shrubs which die, or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.
- 4) The dwelling shall not be occupied until space has been laid out within the site in accordance with Drawing No 0379-01/02 for cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 5) Notwithstanding the provisions of Schedule 2, Part 1, Class A-H and Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the dwelling shall not be extended or altered in any way and no garages shall be erected other than those expressly authorised by this permission.