The Planning Inspectorate

Appeal Decision

Site visit made on 18 December 2018

by Kevin Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2019

Appeal Ref: APP/R0660/W/18/3211271
Fodens Farm, Woodhouse End Road, Gawsworth SK11 9QT

- 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 & Mrs Coleman against the decision of Cheshire East Council.
- The application Ref 18/2976M, dated 15 June 2018, was refused by notice dated 22 August 2018.
- The development proposed is demolition of an existing two-storey detached dwelling, outbuildings and barns, construction a two-storey detached replacement dwelling and conversion of an existing barn into ancillary living accommodation (amendment to application 17/6398M).

Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing two-storey detached dwelling, outbuildings and barns, construction a two-storey detached replacement dwelling and conversion of an existing barn into ancillary living accommodation, at Fodens Farm, Woodhouse End Road, Gawsworth SK11 9QT, in accordance with the terms of the application Ref 18/2976M, dated 15 June 2018, and subject to the conditions listed in the attached Schedule.

Procedural Matter

2. In the formal decision above, I have omitted the words *amendment to application 17/6398M* as this is not an act of development.

Main Issues

3. The appeal site is located within an area of Green Belt. Therefore, the main issues are:

    - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
    - The effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
    - 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 inappropriate development in the Green Belt

4. The Government attaches great importance to Green Belts. The Framework states that the construction of new buildings within the Green Belt is inappropriate development but at Paragraph 145 lists certain forms of development which are not regarded as inappropriate. One such exception is criterion d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

5. Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030 (July 2017) replicates the Framework approach to development within the Green Belt, listing the same exceptions to inappropriate development. The Council also states conflict with saved Policy GC1 of the Macclesfield Borough Local Plan (December 1997, with alterations January 2004). However, the restrictions to Green Belt development set out in this policy are inconsistent with those of the Framework, and therefore I give limited weight to this policy.

6. The appeal site comprises a two storey, detached farmhouse with several adjacent farm buildings. It is proposed to demolish most buildings on the site, except for the brick barn towards the front, which would be renovated. In their place, a two storey, L-shaped dwelling is proposed around two sides of a central courtyard, with the renovated barn forming the third side. Planning permission has been granted for this development on 4 June 2018 under Council Ref 17/06398M. The proposed scheme seeks to add to this a garage building on the fourth side of the courtyard, with a perimeter wall enclosing the courtyard between the garage and the renovated barn.

7. The main parties agree that the proposed dwelling would be materially larger than the existing dwelling (excluding the outbuildings) and would not fall under criterion d) of Paragraph 145. No other arguments are advanced in respect of the proposal meeting other exceptions to inappropriate development. Consequently, the proposal amounts to inappropriate development within the Green Belt and would conflict with the Framework and Policy PG3.

Effect on Openness

8. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.

9. The Council argues that the proposal would have an unacceptable impact on the openness of the Green Belt, due to the size of the garage and courtyard wall, which it states would *'enclose the site in a corralled development and impinge on openness as a block of development.'*

10. In approving application Ref 17/06398M, the Council compared the footprint and volume of the proposed dwelling only against the existing brick-built outbuildings, excluding the metal framed structures, the outcome of which was that the approved dwelling would be smaller in both respects. The appellant states that, taking this approach, the footprint of the dwelling, including the proposed garage, would still be less than the existing brick buildings (-63.3m^2), but greater in volume (+501m^3).

11. However, the appellants argue that when the *totality* of buildings on the site is taken into account, the proposed development would be substantially smaller in footprint (-48.8%), floorspace (-36.9%) and volume (-27%) than the existing buildings on site. The appellants also point to the possibility of constructing a 2m high wall to enclose the courtyard under permitted development (PD) and signal an intention to do so.

12. The existing farm buildings are substantial in size and are spread across the site in a manner typical of many farmyards. I observed each of these to be permanent and of solid construction, which are visible in the surroundings given the openness of the surrounding landscape. I see no reason, therefore, why they should be discounted from any assessment of the effect on openness. The Council does not appear to dispute the accuracy of the appellants' measurements, nor have I reason to having observed the scale of the buildings on site. Taking these figures, therefore, the proposal would result in a significant reduction in the overall amount of development on the site.

13. All the buildings on site, save for the renovated barn, would be demolished as part of the proposal. The proposed dwelling would consolidate the built form of the site into a more compact arrangement which would not extend beyond the existing extremities of development in any direction, nor would the ridge height of the dwelling exceed that of the tallest building on the site. The proposed garage, although large, would be positioned in line with, and in front of, the westernmost part of the dwelling. Thus, from the road and points to the west the garage would be seen against a backdrop of the taller main dwelling, in a not dissimilar arrangement to that which exists with the single storey outbuildings and taller barn behind. From other directions, the massing of the garage would be largely concealed by the rest of the dwelling, or the retained barn towards the front of the site.

14. Therefore, given the overall reduction in the amount and extent of built form on the site, and its physical arrangement, including that of the proposed garage, I find that the proposed development, taken cumulatively, would not have an adverse effect on openness, but conversely would improve the openness of the Green Belt relative to existing development on the site. Moreover, the proposal would not offend any of the five purposes of including land within the Green Belt.

Other Considerations

15. The Council, in approving application Ref 17/06398M, considered that very special circumstances had been demonstrated, citing the possibility of the farmhouse being extended through PD, the capability of the brick outbuildings being converted to residential use via planning application or prior approval, and the consolidation of the overall built form. However, the Council now considers that these other considerations no longer justify the proposal, given it would be materially larger than that approved with, in its view, a resulting adverse effect on openness.

16. However, I have found that the proposal would have a positive effect on openness, given the overall reduction in the amount of development on the site. Moreover, the consolidation to the overall built form in the approved scheme would still occur to much the same degree in the proposed scheme.

17. I have no evidence of a material change in circumstances since the approved scheme was determined in respect of the existing site or any PD rights which may exist. The Council, however, raises objection to the potential for the existing buildings on site to be re-used for residential purposes. In response, the appellants have submitted details of a potential alternative scheme which would comprise the re-use of all existing buildings on the site for residential use or uses ancillary to residential use. The re-use of buildings is not inappropriate development in the Green Belt, provided that the buildings are of permanent and substantial construction and provided the development preserves openness and does not conflict with the purposes of including land within it.

18. Although the Council appears to dispute the adequacy of some of the farm buildings for conversion to residential use, the scheme presented by the appellants would utilise these buildings for stables and garaging which, to my mind, are suitable uses for such buildings. Therefore, I find that such a scheme has a greater than theoretical chance of being implemented, which would retain, and possibly expand the overall amount of development on the site relative to the proposed scheme should permitted development rights also be exercised, with a potentially a greater effect on openness. Therefore, I accord significant weight to this fall-back position.

19. The Council did not raise objection to the specific design of the building. In addition, it found the proposal acceptable in respect of neighbours' living conditions, access and parking, trees and nature conservation. I have no evidence to lead me to different conclusions to those reached by the Council. The absence of harm in these respects would, however, be neutral factors weighing neither for nor against the proposal.

20. I acknowledge the representation from Gawsworth Parish Council in support of the Council's refusal of the application. However, no further points are raised for me to consider.

Planning Balance

21. The proposal would amount to inappropriate development as defined by the Framework, and which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

22. I have found that, despite being materially larger than the existing dwelling, the proposal would consolidate the built form on the site and would enhance the openness of the Green Belt. Given openness is a fundamental characteristic of Green Belts, I afford this benefit significant weight.

23. In addition, I give significant weight to the potential fall-back scheme to utilise the existing buildings for residential use, which would occupy a larger volume and area of development than the proposed scheme.

24. I find that these other considerations, taken together, clearly outweigh the harm the scheme would cause by reason of inappropriateness. Consequently, very special circumstances exist to justify inappropriate development in the Green Belt.

Conditions

25. The Council has suggested conditions in the event the appeal is allowed, which I have considered in light of the tests of conditions within the Framework and guidance of the Planning Practice Guidance (PPG). The appellants have confirmed their written agreement to those conditions which are pre-commencement.

26. I have imposed a condition specifying the approved plans to provide certainty. A condition specifying the external materials to be used is necessary to ensure a satisfactory overall appearance. A condition requiring adherence to the Arboricultural Impact Assessment is necessary to protect retained trees, shrubs and hedges from damage during construction.

27. Conditions are necessary in respect of bird surveys being undertaken prior to demolition, implementing mitigation measures for breeding birds, and implementing the development in accordance with the submitted Great Crested Newt Method Statement, in the interests of protecting biodiversity and protected species. The appellants submitted a Barn Own Survey at a late stage in the appeal, however, the Council has not had an opportunity to comment on it. Therefore, I have imposed a condition which will allow a survey to be submitted to and considered by the Council.

28. A condition is necessary requiring testing of soils for contamination to protect the health of future occupants. A condition requiring details of foul and surface water drainage is necessary to mitigate flood risk and prevent pollution. A condition requiring installation of an electric vehicle charging point is necessary in the interests of sustainability.

29. The Council seeks a condition restricting PD rights to undertake development permitted by Classes A to E of Schedule 2, Part 1 of the General Permitted Development Order. The PPG states that conditions restricting the future use of PD rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Development under Classes C and D is limited in scale and would have modest effects on the appearance of the dwelling. The removal of these rights is not justified, therefore. However, given the scale of the proposed dwelling, and its bespoke design, its enlargement or the addition of curtilage buildings under PD could have significant effects on the character and appearance of the dwelling or the openness of the Green Belt. I consider, therefore, that this represents an exceptional circumstance, and I have imposed the condition to restrict PD rights under Classes A, B and E.

30. Finally, a condition is necessary requiring the demolition of the existing farmhouse. As this is the only structure which would not need to be demolished to make way for the proposed dwelling, the condition would ensure no adverse effects on openness of the Green Belt or the appearance of the site.

Conclusion

31. For the reasons given, and taking all relevant matters into account, the appeal is allowed.

Kevin Savage 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: Location plan; Topographical survey (drawing 01612/01); Existing ground floor plan of building 2 (drawing 01612/GF); Existing first floor plan of building 2 (drawing 01612/FF); Existing elevations of farmhouse (drawing 1612/elevations) – Sheet 1 of 8; Existing elevations of building 1(drawing 1612/elevations) – Sheet 2 of 8; Existing elevations of building 2 (drawing 1612/elevations) – Sheet 3 of 8; Existing elevations of buildings 3 & 4 (drawing 1612/elevations) – Sheet 4 of 8; Existing elevations of building 5, 6, 7 & 8 (drawing 1612/elevations) – Sheet 5 of 8; Existing elevations of building 5, 6, 7 & 8 (drawing 1612/elevations) – Sheet 6 of 8; Existing elevations of building 9 (drawing 1612/elevations) – Sheet 7 of 8; Existing elevations of building 9 (drawing 1612/elevations) – Sheet 8 of 8; Proposed site plan (drawing 18-P2-01C); Proposed ground floor plan (drawing 18-P2-02C); Proposed first floor plan (drawing 18-P2-03C); Proposed east and south elevations (drawing 18-P2-04C); Proposed west and north elevations (drawing 18-P2-05C); Proposed east and south courtyard elevations (drawing 18-P2-06C); Proposed west and north courtyard elevations (drawing 18-P2-07C); Proposed site plan with overlay on existing (drawing 18-P2-08C).

3) Prior to demolition an updated barn owl survey shall be undertaken by a suitable qualified person and a report of the results of the survey submitted to the Local Planning Authority. The submitted report shall include a barn owl mitigation strategy. The submitted strategy shall include proposals for the incorporation of a permanent barn owl roost into the buildings on site and the provision of a tree or pole mounted box within 200m of the development. The pole/tree mounted box to be erected at least 30 days prior to the commencement of development and both the tree/pole mounted box and the roost incorporated into the building to be located at least 3m above ground level.

4) Prior to the removal of any vegetation or the demolition or conversion of buildings between 1st March and 31st August in any year, a detailed survey shall be carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone take place.

5) The development shall be undertaken in strict accordance with the submitted Great Crested Newt Method Statement prepared by UES referenced UES01596/01.

6) Prior to first occupation detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds shall be submitted to and approved in writing by the Local Planning Authority. The numbers of boxes proposed should be informed by the Cheshire East Design Guide. The approved features shall be permanently installed prior

to the first occupation of the development hereby permitted and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority.

7) The materials to be used shall be in strict accordance with those specified on the approved plans. Development shall be carried out in accordance with the approved details.

8) (a) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site.

(b) Prior to occupation of the development, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority.

If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme also agreed in writing by the Local Planning Authority.

9) All arboricultural works shall be carried out in accordance with Urban Green Arboricultural Impact Assessment Ref Project No 11273, Issue No 1 dated 10 November 2017.

10) The development shall not be occupied until a system for discharge of surface water drainage has been installed in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved system shall thereafter be retained and operational in perpetuity.

11) The development shall not be occupied until Electric Vehicle Infrastructure has been provided to the following specification:

A single Mode 2 compliant Electric Vehicle Charging Point for the property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kV charging.

The infrastructure shall be maintained and operational in perpetuity.

12) The existing house shall be demolished within 6 months of the approved dwelling being substantially complete and capable of being occupied.

13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order), no extensions that would enlarge the dwellinghouse and that would otherwise fall within Classes A and B of Part 1 of Schedule 2 of that Order, and no development that would result in the provision of a building or enclosure within the curtilage of the dwellinghouse and that would otherwise fall within Class E of Part 1 of Schedule 2 of that Order, shall be carried out without a separate grant of planning permission by the Local Planning Authority.

END OF SCHEDULE