



Appeal Decision

Site visit made on 29 May 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7th August 2019

Appeal Ref: APP/R0660/W/19/3224090

Land off Eccups Lane, Morley Green, Nr.Wilmslow

- 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 Phillip Faulkner and Mrs Linda Faulkner against the decision of Cheshire East Council.
 - The application, ref. 18/0869M, dated 16 February 2018, was refused by notice dated 26 September 2018.
 - The development proposed is the demolition of the existing residential garage (Use class C3), sheep shed and other ancillary buildings / stores (agricultural buildings) and replacement with a single bungalow (Use Class C3).
-

Decision

1. The appeal is dismissed.

Main issue

2. 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 any relevant development plan policies;
 - The effect of the proposed development on the openness of the Green Belt; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate

3. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, unless the development falls within certain listed exceptions. These exceptions are also repeated in Policy PG3 of the *Cheshire East Local Plan Strategy 2010-2030* (LP) and relevant considerations of this policy to the appeal scheme are the '*limited infilling of villages and replacement of buildings if they are in the same use*'; and '*development on previously developed land that is not materially larger than the buildings they are to replace.*'

4. The appeal site is a parcel of land located along a rural lane within the North Cheshire Green Belt. Along the rural Lane, there is some sporadic scattering of residential development, with the appeal site containing a 'Nissen hut' and a small stable block. The land is used for the grazing of animals and the parking of vehicles.
5. The appellant states that the Nissen Hut is used for the parking of vehicles which would be a 'domestic use' and would therefore represent 'previously developed land.' The appellant contends that the historic granting of a double garage and stable block¹ on the site evidences the change of use from agricultural to residential, however this planning permission was never commenced and I therefore afford this approval limited weight. Whilst it is accepted by the Council that the Nissen Hut may be determined as 'domestic use' which is long standing, the Council submit a copy of the location plan for the previously approved scheme which shows the red line drawn tightly around the built form, indicating that the remainder of the site would be agricultural in use and does not benefit from a planning permission of a change of use.
6. Based on this, I have not been presented with any evidence which demonstrates that the entire appeal site which is to accommodate the proposed dwelling is currently considered to be of a residential use or previously developed land. In my opinion, and based upon the evidence before me, I do not consider the appeal proposal as a whole to represent the same use as existing; or as previously developed land as per the definition found within the glossary of the Framework.
7. Be that as it may, the proposed dwelling would be substantially larger than the existing built form, of which the Council estimate would be an increase in size of approximately 57%, which would be materially larger than the buildings it seeks to replace.
8. With regards to the appellant's comments that the site represents limited infilling of a village, the site is not within a defined village or settlement boundary, and is seen alongside the other sporadic development within the open countryside along the rural lane at this location. I do not consider that the plots on either side of the appeal site are part of a built-up frontage, nor are they within a designated village and consequently, I do not consider that the proposed scheme would constitute the limited infilling of a village.
9. In my opinion, there is a significant conflict between the proposal and the exceptions specified by Policy PG3 of the LP and the Framework. The appeal proposal would not constitute limited infilling or redevelopment of previously developed land; and the site as a whole would not be of the same use to the building it replaces, and would result in a disproportionate increase over and above the size of the original buildings. Accordingly, I find that the proposal would be 'inappropriate development' in the green belt.
10. Paragraph 143 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I therefore attach substantial weight to the harm arising due to the inappropriate nature of the appeal development.

¹ Cheshire East Council Planning Ref: 04/1651P
<https://www.gov.uk/planning-inspectorate>

Openness

11. Paragraph 143 of the Framework says 'the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.' Whilst there is no definition of 'openness' in the Framework, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development.
12. Despite the appellant's contention that the Nissen Hut is domestic in use, the remainder of the site has an agricultural use and appearance which is rather low scale and preserves an open aspect with views through the site to the undeveloped and open land beyond. Whilst the buildings on site may be in poor physical condition, they are seen within the agricultural context where buildings of this nature and design are present and an expected feature given the semi-rural locality.
13. In comparing the size of the existing buildings against the proposed scheme, the residential dwelling would contain a greater massing and visual bulk which would be taller in height, have a larger footprint and would contain more massing and volume than the buildings it replaces. Whilst the Appellant argues that the building would be approximately 25% larger than the historic lapsed planning approval, the Council base their assessment upon the existing buildings, which in their estimate is approximately 57% larger than the current buildings on the site.
14. Even if I was to accept the appellant's stance that the measurement of 'materially larger' should be taken from the existing lapsed planning permission, the proposal would in my opinion still be detrimental as a result of being materially larger than the buildings it would replace. As such, based upon these size comparisons, the proposed dwelling would be a materially large addition to the amount of built development on the site, which has a resultant moderate effect upon the openness of the Green Belt in this location. Nevertheless, this additional effect of the development on the openness of the site, and on the Green Belt, adds to the harm already caused by reason of its inappropriateness.

Other Considerations

15. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
16. The appellant presents other decisions in order to demonstrate similarities between the appeal site. I have taken into account a Council issued decision² relating to a proposal to construct a dwelling in the place of a timber outbuilding, the entire site of which was considered to be part of a residential curtilage and previously developed land, unlike the appeal site. An appeal³ is also submitted which allowed the erection of a bungalow within the curtilage of residential land that was on the edge of the main built up form of the village of Adlington. In that case the Inspector found that the site differed from others in

² Cheshire East Council Planning Ref: 18/3986/M

³ Appeal Ref: APP/R0660/A/14/2226714

the vicinity as a result of its proximity to existing residential curtilage and its visual containment.

17. Taking both these appeals into account, I am not convinced that they are analogous to the appeal site as both are within residential curtilage and are not within a similar context to the appeal site where the majority of the land is within agricultural use. I therefore afford these decisions little weight.
18. I note that the Framework encourages the development of small sites and making effective use of urban land. The proposal would also deliver a further dwelling which will make a modest contribution to meeting housing need, as well as result in short term employment opportunities in the construction of the dwelling, and the contribution to local expenditure from future occupiers. These factors weigh in favour of the development.
19. I also note comments that the perceived improvement of the land by the proposed residential development would counterbalance the effect upon the openness as a result of proposing a larger built form. Policy PG3 of the LP or the Framework does not provide for such a concession to be had. I therefore afford the consideration of improvement of the site little weight.
20. Despite this, these other considerations do not, either separately or cumulatively, clearly outweigh the harm by reason of inappropriateness and the additional harm to the openness of the Green Belt. As a result, the very special circumstances that are required to permit the development do not exist. The appeal development would therefore conflict with the provisions of the Development Plan and with the Framework, as referred to above.

Conclusion

21. In conclusion, the appeal proposal would be inappropriate development in the terms set out in Policy PG3 of the LP and the Framework and, in addition, it would lead to a moderate loss of openness to the Green Belt. These issues are not outweighed by the considerations advanced by the appellant, so as to amount to very special circumstances. Therefore, for the reasons given above I conclude that the appeal is dismissed.

J Somers

INSPECTOR