



Appeal Decision

Site visit made on 22 October 2019 by Hannah Ellison BSc (Hons) MSc

Decision by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 22 November 2019

Appeal Ref: APP/R0660/W/19/3234959

64 Audley Road, Alsager, Stoke-on-Trent, ST7 2QN

- 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 Kevin Lancaster against the decision of Cheshire East Council.
 - The application Ref 18/6380C, dated 20 December 2018, was refused by notice dated 14 February 2019.
 - The development proposed is the 'construction of new residential dwelling - Resubmission of application reference 18/2298C'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - If found to be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development and openness

4. The appeal site comprises part of the extensive rear garden of No.64 Audley Road, which is located south of Alsager. The majority of the appeal site falls within the South Cheshire Green Belt. The proposal is for a detached, single-storey dwelling which would be accessed from the existing vehicular entrance for No.64, following the demolition of an existing detached garage.
5. PS7 of the Congleton Borough Local Plan First Review 2005 (the 'CBLPFR') and PG3 of the Cheshire East Local Plan Strategy 2017 (the 'CELPS') set out various

exceptions to forms of development for which approval will be given in the Green Belt. These policies appear broadly consistent with the policies of the National Planning Policy Framework (the Framework) in relation to development in the Green Belt.

6. The Framework establishes that new buildings in the Green Belt are inappropriate. However, it sets out certain circumstances, listed in paragraphs 145 and 146, which can be considered as exceptions.
7. The exception set out in paragraph 145g relates to development that involves limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings. Previously developed land, as defined in the Framework, is land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. Gardens within built-up areas are excluded from the definition.
8. It is clear that the site forms part of the garden of No 64 and the Council does not dispute that the site constitutes previously developed land. Notwithstanding this, paragraph 145g also requires that development would have no greater impact on the openness of the Green Belt than the existing development. Paragraph 133 of the Framework states that a 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. There are no buildings, structures or other infrastructure on the appeal site where the proposed dwelling would be positioned. The land is maintained as lawn and there is a degree of separation between the site and the house due to the presence of shrubs and trees. The proposal would result in a dwelling and areas hardstanding being constructed, thus introducing a significant amount of built form into this open land which would reduce the spatial openness of the Green Belt.
10. It is noted that the dwelling would be single-storey in height and that there is existing hedge coverage along the west and north boundaries close to the proposal, which would somewhat screen the proposal from views within the wider Green Belt. However, the dwelling would be visible from adjacent properties and land to the west. Given the distance between the appeal site and No.64 and its associated domestic features, this proposal would be detached from the context of the existing built form and would therefore reduce openness in visual terms.
11. Consequently, taking all the above together, this proposal would fail to preserve the openness of the Green Belt and would conflict with one of the purposes of the Green Belt which is to safeguard the countryside from encroachment. Thus, given that the proposal would not preserve openness it would not fall within exception set out in 145g of the Framework and therefore constitutes inappropriate development in the Green Belt.

Other considerations

12. The Council issued a Certificate of Lawfulness for Proposed Use or Development (CLOPUD) for the construction of an ancillary building, which plans show would

be used as a gym, cinema and swimming pool, and the construction of a tennis court, in 2018¹. The CLOPUD did not appear to include tennis court fencing. If erected, the ancillary building would occupy a similar position within the site to the appeal proposal.

13. The appellant asserts that there is a 'high probability' that this development would be implemented should the appeal be dismissed. Whilst I noted on site that a limited amount of trenching has been carried out, I am unconvinced on the basis of that evidence that there is an intention to commence development. Nevertheless, I accept that there is a reasonable prospect that the development would be constructed and as such the CLOPUD represents a realistic fallback position. However, for significant weight to be afforded to a fallback position, there needs not only to be a reasonable prospect of it being carried out in the event that planning permission was refused, but it would also need to be equally or more harmful than the scheme for which permission is sought.
14. The appellant has calculated that the proposed dwelling would have a smaller floor area and would be of a similar height and lesser volume than the building which could be built under the CLOPUD. That is not disputed by the Council and there is no reason for me to disagree. Notwithstanding this, the impact of a development on openness is not necessarily related to its size, but also to its purpose. The CLOPUD development is for use ancillary to No.64 whereas the appeal proposal is a self-contained dwelling. The respective buildings might appear physically similar, but their purpose and function and the way the space around them is used would be significantly different. Future occupants of the new dwelling are likely to require an outdoor area and would have a range of domestic paraphernalia such as washing lines, waste containers and outdoor furniture. Further, the appeal proposal would result in additional comings and goings over and above those associated with the residential use of No.64 and there would be additional parking of vehicles. All this would reduce the openness of the Green Belt.
15. The appellant notes the appeal site could be used for domestic paraphernalia, garden furniture etc associated with No.64. Be that as it may, the proposal would result in an additional dwelling and the subdivision of the plot would intensify the domestic use of the site and would result in a degree of domestic features above and beyond what would be reasonably expected of a single dwelling. The tennis court would introduce an area of hard surfacing along with a footpath around it but would have a limited impact on the visual or spatial qualities of openness. In comparison with the appeal proposal, the nature and use of the tennis court and associated path, which would not be as visually prominent nor result in additional vehicular comings and goings, would be less significant.
16. Consequently, taking all this into consideration, the appeal proposal would have a more significant impact on the openness of the Green Belt than the fallback position. As such the fallback position carries only limited weight in favour of the appeal.
17. It is acknowledged that the permitted development rights to erect additional outbuildings on the appeal site may exist. However, whilst such buildings may harm the openness of the Green Belt, in the absence of any further details or

¹ Application Ref: 18/0388C

the likelihood of such an extensive range of outbuildings realistically being implemented, the impact of those rights cannot be ascertained. Furthermore, the proposed dwelling would also benefit from permitted development rights to erect outbuildings, which would in themselves harm openness. Such development could not be reasonably controlled through a condition. The appellant also opines that further parking areas for No 64 could be constructed on the site. However, even if that were the case, I am unconvinced that such areas would be used as intensively as the appeal proposal given the well-established parking arrangements and space available closer to the house. These matters therefore carry limited weight.

18. I acknowledge that the proposal would contribute to local housing supply, particularly regarding small and medium sized sites, and despite the Council being able to demonstrate a five-year housing land supply, the target figure should not be considered a maximum. The proposal would offer an additional housing unit which would bring some accompanying social and economic benefits albeit that the scale of this benefit would be limited. However, given that the proposal would constitute inappropriate development in the Green Belt it cannot be considered sustainable development taking into account the Framework considered as a whole.
19. The appellant expresses the opinion that the appeal site should not fall within the Green Belt boundary, given its relationship to No.64 Audley Road and the settlement boundary of Alsager. However, there are other mechanisms available to consider site allocations and the Green Belt boundary. This is not a matter for consideration in the determination of this appeal and thus is afforded no weight.
20. I acknowledge that the proposed dwelling would be located in an accessible location and it is noted the Council has raised no objections on this basis. Further, no objections have been raised on design or access grounds. I have no reason to disagree with this view. However, these are neutral matters rather than ones which carry weight in favour of the proposal.

Whether very special circumstances exist

21. The Framework states that inappropriate development is harmful to the Green Belt and should not be permitted except in very special circumstances. The proposed development would constitute inappropriate development in the Green Belt to which substantial weight is given.
22. The advanced considerations in support of the appeal, whether taken individually or cumulatively, do not clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. For these reasons the proposal would conflict with the Framework and also with policy PG3 of the CELPS and PS7 of the CBLPFR.

Conclusion and Recommendation

23. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Hannah Ellison

Appeal Planning Officer

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Susan Ashworth

INSPECTOR