
Appeal Decision

Site visit made on 6 July 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2020

Appeal Ref: APP/Q4245/W/20/3252588

Levenot, Charcoal Road, Dunham Massey WA14 4RT

- 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 Phoenix Build and Developments Ltd against the decision of Trafford Borough Council.
 - The application Ref 99113/FUL/19, dated 16 October 2019, was refused by notice dated 6 March 2020.
 - The development proposed is the demolition of the existing dwelling and the erection of a replacement apartment building with associated works.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site is located within the Green Belt as defined by Policy R4 of the *Trafford Core Strategy (adopted January 2012)* (TCS). The *National Planning Policy Framework* (the Framework) paragraphs 145 and 146 set out the forms of development that are not inappropriate in the Green Belt. In the light of these, the parties are agreed that the proposal would be inappropriate development within the Green Belt, a conclusion with which I agree.
3. Accordingly, the main issues in the appeal are:
 - the effect of the proposal on the openness of the Green Belt;
 - whether or not the proposal would provide adequate living conditions for future occupiers with particular regard to outlook and light; and
 - whether or not 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 it.

Reasons

Openness

4. Openness is an essential characteristic of the Green Belt. It can be considered to be the absence of buildings and development and is not just a visual consideration such as character and appearance but is a spatial consideration as well.

5. The appeal site consists of a large detached house set in spacious grounds. The house is empty and in a poor state of repair. Mature vegetation around the site limit views of the building, with the only visibility being partial views of it from the road to the west where there is a gap in the boundary vegetation.
6. It is proposed to demolish the existing house and replace it with an apartment building consisting of 6 flats. The footprint, volume and height of the new building would all be greater than the existing house, and so the proposal would result in development on parts of the site that are currently open. Nonetheless, the new building would still largely be screened from view by the mature vegetation, and whilst the amount of built form that could be seen would be greater, it would form a small part of the overall panorama that can be seen at that point. Moreover, as the proposed new landscaping matures, these views would reduce further.
7. A small bin store would be located towards the boundary with the road. This would be a small timber structure with a green roof and would be screened from external views by the surrounding vegetation.
8. Overall, whilst the proposal would have an impact on openness, the degree of harm arising from this would be minimal.

Living Conditions

9. The proposal would create 6 large apartments each with 3 ensuite bedrooms as well as living space. Whilst 3 of these would be accommodated within a single floor, the other 3 would be split over 2 or 3 floors. Utilising the difference in levels on the site, 4 of the apartments would have some or all of the accommodation in the basement /garden level.
10. Three of the apartments (Nos 1, 2 and 5) have a bedroom within the basement level that would not have any outlook and would rely on rooflights/ voids to provide natural light to the rooms. In addition, apartment 5 has a living room with a similar situation.
11. In terms of apartments 1 and 2, each of these would have 2 other bedrooms and a generously sized living space that would have large windows providing outlook and good amounts of light. Whilst the third bedrooms may not have outlook, I am satisfied that the voids/rooflights would provide adequate levels of light to the rooms. Moreover, although shown as bedrooms on the plans, how future occupiers may choose to use them could vary. Whilst a habitable room with no outlook is not ideal, given that the other rooms in the apartments would all have adequate outlook, I consider that overall the occupiers of these two apartments would still have acceptable living conditions.
12. In terms of apartment 5 both the rooms at the basement level would have no windows and would rely on light from the rooms above. The plans show these as a bedroom and a lounge. The apartment would have 2 other bedrooms which would have adequate light and outlook and a kitchen/dining/living space on the ground floor as well as the living room at basement/garden level. However, given the size of the ground floor living space which would serve as a kitchen, dining and living area as well as providing a void to allow light to the room below, I consider that the room on the lower level would act as the main lounge area. Thus, it is likely to be a room where future occupiers could spend a considerable amount of time. As a result, the lack of any windows to give

outlook to this room, and having another habitable room which also has no outlook, is unacceptable even if sufficient light is provided by way of the void from the rooms above. Therefore, I am not satisfied that adequate living conditions would be provided for the occupiers of this apartment. The provision of very generous outdoor space for the apartments would not be sufficient to overcome these internal deficiencies.

13. Consequently, notwithstanding my conclusion regarding apartments 1 and 2, I consider that the proposal would not provide adequate living conditions for the future occupiers of apartment 5 with particular regard to outlook. Thus, the proposal would be contrary to Policy L7 of the TCS which, amongst other things, requires that developments should not prejudice the amenity of future or existing occupiers.

Other Considerations

14. In May 2018 permission was granted on appeal¹ for a replacement dwelling on the appeal site. The appellant has indicated that, although the current appeal scheme represents the preferred development, should the appeal not be successful it would be the intention of the appellant to build this alternative scheme. To this end it is indicated that all pre-commencement conditions have been discharged for the dwelling. This is therefore a fallback position that I am invited to consider.
15. The Council has suggested that the appeal scheme is being pursued as the appellant has been unable to secure a purchaser for the previous scheme after marketing. However, the appellant has stated that no marketing of the site has been carried out to date because, as a developer, they propose to develop the site themselves. Despite this they state they have had numerous enquiries from others interested in buying the site. Evidence provided by the appellant indicates that the dwelling would attract significantly greater sales value than the site in its current state and so it makes commercial sense to construct it even if the current proposal is financially preferable.
16. From the evidence before me I am satisfied that there is a realistic prospect that the fallback scheme would be constructed should the appeal fail.
17. The footprint and design of the appeal proposal and the previously approved dwelling would be the same, with just some minor differences in the external appearance. However, the volume of the proposed building would be significantly larger as it would have an underground parking area that would provide 10 parking spaces. Nevertheless, as the car park would be wholly subterranean, whilst it would affect the volume of the development, I consider that it would not result in it having any greater impact on the openness of the Green Belt.
18. Another difference between the former and the current appeal scheme would be the provision of a bin store towards the boundary with the road. This would be a lightweight timber structure of modest size which would be screened from view by the existing vegetation, as such the additional impact it would have on the openness of the Green Belt would be inconsequential.
19. The Council have indicated that they consider the intensification in the use of the site that would result from there being 6 apartments rather than a single

¹ Appeal Reference APP/Q4245/W/17/3190295

dwelling would also impact on the openness, particularly in relation to the amount of cars parked on the site. The proposal would provide 2 surface level parking spaces for 1 apartment, with the other 10 spaces being in the subterranean car park which would be accessed by a car lift. The ability to park at surface level would be restricted by timber posts along the driveway. The basement level parking would provide direct access to 3 of the apartments with the other two having lift access. In comparison, the approved dwelling would have garaging for 3 cars.

20. Whether the future occupiers of either scheme would use the garaging or basement parking is not possible to control or predict with any certainty. The evidence indicates that the car lift is not difficult or slow to use. Given this, the limited ability to park at surface level and the ease of access to the apartments from the parking area, it would not appear inconvenient to use or unlikely that future occupiers would use it, particularly overnight. Whilst some occupiers may leave cars temporarily at ground level during the day, I would expect this would only be for relatively short periods of time.
21. The approved dwelling is a substantial size and it is feasible that a significant number of cars could be associated with it. Thus, even if it utilised its garaging for parking purposes, there could well be vehicles left on the drive on a regular basis overnight. Moreover, during the day the occupiers could easily leave cars out of the garage. In the light of this, I am not persuaded that the appeal scheme would result in substantially more open parking on the site than the approved dwelling. Furthermore, as any cars parked on the drive would be temporary features that would not be visible from the public realm, the impact any such vehicles would have on openness would be minimal.
22. Whilst 6 apartments may attract more deliveries than a single dwelling, the length of time the majority of delivery vehicles remain at a site is limited, and so would not have any impact on openness. The proposal may create slightly more traffic movements on the local highway network than the approved house but given the level of traffic Charcoal Road already carries, this would not be noticeable, and certainly would not impact on openness. Thus, I consider there would be no difference between the approved and proposed scheme in terms of their impact on the openness of the Green Belt.
23. Although the proposed building would have 6 apartments, the grounds would be communal and subject to very similar landscaping proposals as the approved dwelling. As such, the proposal would not result in any subdivision of the garden area which could be detrimental to the character and appearance of the area. Moreover, the future maintenance of the garden would be controlled by a management company and could be subject to a management plan that could be secured by a planning condition. This provides more control than would be the case if the site was developed for a dwelling, where any control on the landscaping would cease after an initial period, and thus future owners could change the landscaping in ways that might be detrimental to the character and appearance of the area.
24. In addition, the appellant has highlighted that as apartments the proposed units would, unlike the dwelling, have no permitted development rights. There is no certainty whether or not a future occupier of the dwelling would exercise any of the permitted development rights the house would have. Whilst the dwelling would be a substantial size, there is still the possibility that some, if

not all, of these rights could be pursued in the future, which could result in a reduction in openness. Nevertheless, even if this did occur, given the lack of visibility of the site, the impact on openness would be limited.

25. It is not disputed that the Council cannot currently demonstrate a 5 year housing land supply, with the appellant stating that the figure at present is a 2.8 year supply. This is clearly a significant shortfall and is a matter of considerable weight. The appeal scheme would provide 5 additional residential units, and so would make a small contribution to housing supply which would not be the case with the approved dwelling which would simply be replacing the former house.
26. Whilst I note the Council's comments regarding the likely cost of the apartments and the fact that they would only provide accommodation for a limited range of people, the Framework does not indicate that in ensuring an adequate supply of housing any differentiation should take place between sites on the basis of the likely price of the housing that would be built on them.
27. Bringing these points together, the appeal scheme would have no greater impact on the openness of the Green Belt than the approved dwelling, and may offer some slight improvements in the future by providing greater control over the landscaping on the site and by virtue of the lack of any permitted development rights. Moreover, it would create 5 additional units of accommodation.
28. As such, I consider that the appeal scheme would be better than the approved dwelling. Consequently, I consider that the fallback position is a material consideration, and that it should be given significant weight.

Other Matters

29. The site lies within Devisdale Conservation Area - a residential area laid out in the late 19th century characterised by large houses set in substantial plots. In addition, the adjacent dwelling is considered to be a non-designated heritage asset as it is identified as making a positive contribution to the conservation area. The Council have raised no objection in relation to the impact of the proposal on the character and appearance of the conservation area or to the adjacent house. As highlighted above, the external appearance and design of the proposal would largely be the same as the approved replacement dwelling. The Inspector in that appeal concluded that the replacement dwelling would preserve the character and appearance of the conservation area. In the light of this, and from my observations, I see no reason to come to a different conclusion.
30. I note the Council's concern regarding the semi-rural location of the site. Whilst the site is on the fringe of Bowden, Charcoal Road is a bus route which provides a regular service to Altrincham and Warrington. As such, future occupiers would not solely be reliant on private vehicles to access services and facilities.

Planning Balance and Conclusion

31. The proposal would be inappropriate development in the Green Belt, which, by definition, is harmful to the Green Belt, and should only be approved in very special circumstances. In addition, the replacement building would have an impact on the openness of the Green Belt, albeit minimal and the proposal

would not provide adequate living conditions for the future occupier of apartment 5. Paragraph 144 of the Framework indicates that any harm to the Green Belt should be given substantial weight and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of appropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

32. Whilst I give considerable weight to the fallback position, in this case I consider that the additional benefits of the appeal scheme over the fallback does not clearly outweigh the harm the proposal would cause in not providing adequate living conditions. As such, very special circumstances do not exist, and the scheme would conflict with policy R4 of the TCS and the Framework.
33. It is disputed between the parties whether in the absence of a 5 year housing land supply, the tilted balance in paragraph 11 d) ii of the Framework should apply. However, in such circumstances paragraph 11 d) i indicates that permission should be granted unless the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the development proposed. Footnote 6 indicates that this includes policies relating to Green Belts. Given that I have concluded that the scheme would be contrary to the Green Belt policies of the Framework, this is the case here.
34. I therefore concluded the appeal should be dismissed.

Alison Partington

INSPECTOR