



Appeal Decision

Site visit made on 4 August 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2020

Appeal Ref: APP/M0655/W/20/3249630

Cherry Lane Barn, 5 Cherry Lane, Lymm, Cheshire WA13 0UJ

- 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 Chris Horn against the decision of Warrington Borough Council.
 - The application Ref 2019/35352, dated 4 July 2019, was refused by notice dated 1 November 2019.
 - The development proposed is described as: 'New dwelling'.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of a dwelling, detached garage, landscaping details and access at Land at Cherry Lane Barn, Cherry Lane, Lymm, Cheshire WA13 0UJ in accordance with application Ref 2019/35352, dated 4 July 2019, subject to the conditions listed in the attached schedule.

Procedural Matters

2. The description of the development and the address in the banner heading above is taken from the application form. However, in my decision, I have taken the description of the development from the Council's decision notice and appeal form, omitting unnecessary text. Additionally, in my decision I have omitted 'no. 5' and added 'Land at'. In both instances, the changes more accurately describe the proposal and its location.
3. Policy CC 1 of the Warrington Borough Council Local Plan Core Strategy 2014 (CS), was not cited on the Council's decision notice, but was referenced in its Statement. This policy was not provided by the Council in its Questionnaire and was subsequently requested. Both main parties were given the opportunity to comment on any relevant implications for the appeal, but only the appellant has submitted a response. I have had regard to the comments received and I will not prejudice any party in considering CS Policy CC 1 in the determination of this appeal.

Main Issues

4. The main issues of this appeal are:
 - whether the proposed development would be inappropriate development in the Green Belt; and,
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area.

Reasons

Inappropriate development

5. CS Policy CS 5 indicates that development proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies. Paragraph 145 of the National Planning Policy Framework (the Framework) provides that the construction of new buildings should be regarded as inappropriate subject to exceptions. One exception to this is Paragraph 145 e) limited infilling in villages, which the appellants have relied upon in their submission. The terms "limited" and "infilling" are not defined in the Framework. Additionally, in respect of limited infilling in villages as an exception, the definition of village is a matter of judgement as it is not defined within the Framework.
6. It is common ground between the main parties that the site lies outside the settlement boundary line of Lymm, albeit directly adjacent. Therefore, the proposed development is in conflict with CS Policy CC 1. However, in this case I consider the location of the site and its juxtaposition with existing development to be more relevant. The site comprises a parcel of land which lies between modern residential development on Lady Acre Close and at Cherry Lane Barn. These properties face the strip of continuous development along Cherry Lane which lies within the boundary lines of the settlement, along with the properties on Lady Acre Lane. The plot would adjoin open land to the rear but would not extend beyond the residential envelope of development on either side.
7. I note that development on Lady Acre Lane and on the opposite side of Cherry Lane to the site is denser than that to the south of the site. Nonetheless, the proposed development would be commensurate in size with the dwellings either side and would sit comfortably within the gap in the frontage, reflecting the established pattern of development. I consider the site appears to be part of the village. Consequently, I find that the physical circumstances of a site and its relationship to the settlement are more relevant than the designated village boundary in determining whether the site can be considered to be infill development.
8. I consider that having regard to the position and nature of the site, the proposal can be considered to be physically and visually related to the existing settlement and to comprise limited infilling. Therefore, I find no conflict with CS Policy CS 5. The construction of an infill dwelling in this location should not be considered to constitute inappropriate development in the Green Belt and the proposal would not conflict with the requirements of the National Planning Policy Framework (the Framework).
9. As I have not found that Green Belt harm would arise in this case, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required to make the proposed development acceptable.

Character and appearance

10. It is common ground between the main parties that the only element of the proposed development in dispute on this main issue, is surrounding the proposed detached garage (the garage). On the evidence before me and from

my findings during the site visit, I have little reason to disagree with the Council on this matter.

11. The garage would be located towards the front of the site towards Cherry lane with the proposed dwelling located behind it. Access to the proposed development would be from the existing shared access off Cherry Lane with a private access located a short distance along the shared access on the left when entering from Cherry Lane. When viewed from Cherry Lane the site is set behind a low brick wall with a tall mature laurel hedge behind. The hedgerow returns and continues along the shared drive, densely screening the site from areas within the public realm.
12. The garage would comprise a garage area/store on the ground floor with a family gym located on a first-floor mezzanine within its roof. Due to this layout, and design, the garage would maintain a 1.5 storey appearance. During my visit, I noted a number of detached garages in the surrounding area on properties located on Cherry Lane and on Lady Acre Close, which are in proximity of the highway. However, I accept that the garage subject of this appeal may be slightly taller when compared against the existing detached garages in the surrounding area. Nonetheless, a positive visual relationship would occur between the proposed development and the contemporary barns on the opposite side of the shared access, which are similar in design to the proposed development.
13. Consequently, whilst glimpses of the garage would be possible when travelling along in either direction of Cherry Lane and when travelling along the shared access, I do not find that the garage would amount to an excessive form of development in its location. Additionally, whilst the garage would be sited closer to Cherry Lane than No 1 Lady Acre Close, which is adjacent to the site, this would not result in harm to the character and appearance of the area, due to the presence and siting of No's 1 Cherry Lane Barn and 57 Cherry Lane to the south of the site. This is due to their proximity to the highway, which in turn forms a distinctive feature on this section of Cherry Lane, readily visible and contributing positively to the surrounding area. Accordingly, the garage would not form an intrusive or overly prominent feature in the street scene.
14. For all of these reasons, I conclude that the proposed development would not significantly harm the character and appearance of the appeal site or surrounding area. Consequently, this would accord with the design, character and appearance aims of CS Policy QE 7 and the requirements of the Framework.

Other Matter

15. The occupiers of No 1 have also expressed a wide range of concerns including, but not limited to the following; living conditions, loss of view and construction works, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns raised, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

Conditions

16. The Council has suggested conditions which it considers would be appropriate in its submission. I have reviewed these in accordance with the tests set out in the Planning Practice Guidance (PPG) and have amended the wording where necessary in the interests of clarity and simplicity.
17. It is necessary to impose a condition relating to the approved plans in the interests of certainty. A pre-commencement condition securing the submission of external materials to the Council is reasonable and necessary to ensure the facing materials of the proposed development is acceptable to the character and appearance of the appeal site and surrounding area. A pre-commencement condition securing the submission of a Construction Method Statement is reasonable and necessary to ensure that the proposed development does not adversely affect the living conditions of neighbouring occupiers or resultant in highway safety issues.
18. It is reasonable and necessary to attach a planning condition to ensure that any external lighting scheme is submitted for approval and to ensure the proposed parking area is retained for its intended purpose in the interest of character and appearance, and highway safety respectively. Additionally, it is reasonable and necessary to impose a pre-commencement condition relating to contaminated land and measures to ensure the protection of future occupiers.
19. Whilst the Framework is silent on such matters, permitted development is development for which the principle has already been granted by secondary legislation, and there are no restrictions within the GPDO¹ for domestic extensions or development within the curtilage of a dwelling located within a Green Belt, whereas such restrictions do exist (for example) on dwellings within National Parks and conservation areas. Therefore, in the light of national policy and guidance regarding imposition of conditions restricting the future use of permitted development rights, I consider there are no exceptional circumstances (as required by PPG 017) to justify the removal of permitted development rights at the appeal site.
20. A condition was suggested by the Council regarding works to trees and shrubs. However, nesting birds are protected by different legislation², so I have not imposed it. Additionally, a condition was suggested in relation to the submission of a landscaping plan, but the scheme is only for a single dwelling and it is therefore a small-scale development, so it would be unreasonable to attach such a condition in this instance.

Planning Balance and Conclusion

21. The Framework does not change the statutory status of the development plan as the starting point for decision making. I have found conflict with CS Policy CC 1. However, the proposed development is not inappropriate development in Green Belt and accordingly would not cause harm to the Green Belt. Additionally, I find no harm to the character and appearance of the appeal site and surrounding area. I have not found conflict with the requirements of the Framework. I am also satisfied that subject to the imposition of appropriate conditions, there would be no harm with respect to any other matters.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) (as amended)

² Wildlife and Countryside Act 1981

22. The provision of what is likely to be a family home would generate additional social benefits. In addition, there would be economic benefits for the locality, both during construction and occupation of the dwelling. Overall, I consider that there would be no adverse effects resulting from the proposed development that would significantly or demonstrably outweigh my findings on the main issues. Therefore, in this instance there are material considerations which indicate that the proposal should be determined otherwise than in accordance with the development plan and planning permission should be granted.
23. Taking all matters into consideration, I conclude that the appeal should succeed.

W Johnson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 16-05-02B; 16-05-03A; 16-05-04; 16-05-05B; 16-05-06C; 16-05-07B; 16-05-08A; 16-05-09A; 16-05-10A; 16-05-11F.
- 3) No development shall take place, until written and photographic details of the external roofing and facing materials (including manufacturer's details) shall be submitted to the local planning authority for approval. Materials samples shall be made available to view on site. The development shall be constructed in accordance with the approved details/samples.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to the Local Planning for approval. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: i. the parking of vehicles of site operatives and visitors; ii. loading and unloading of plant and materials; iii. storage of plant and materials used in constructing the development; iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; v. wheel washing facilities; vi. measures to control the emission of dust and dirt during construction; vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 5) None of the buildings hereby approved shall be used/occupied until details (if any) of external lighting have been submitted to the Local Planning Authority for approval. The external lighting shall be installed in accordance with the approved details and thereby retained and maintained for the life of the development.
- 6) The parking provision shown on the approved plans shall be provided prior to first occupation of the development. The parking provision shall not be used for any other purpose other than the parking of vehicles and it shall be maintained and retained for the life of the development.
- 7) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the

Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.

End of Schedule