
Appeal Decision

Site visit made on 8 December 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2021

Appeal Ref: APP/R0660/W/20/3258170
Dunmow, Mereside Road, Mere WA16 6QZ

- 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 Ande against the decision of Cheshire East Council.
 - The application Ref 20/0775M, dated 17 February 2020, was refused by notice dated 27 May 2020.
 - The development proposed is replacement dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs Ande against Cheshire East Council. This application is the subject of a separate Decision.

Main Issues

3. 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 proposal on the openness of the Green Belt; and
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. The exception which is set out at paragraph 145(d) of the Framework, is the replacement of a building, provided the new building is in the same use and not

materially larger than the one it replaces. Policy PG3 of the Cheshire East Local Plan, Local Plan Strategy 2010-2030, 2017 (CELP) sets out that permission will not be granted for inappropriate development, except in very special circumstances in accordance with the Framework.

6. CELP Policy PG3 sets out a number of exceptions, including at 3.iv, which is consistent with the wording in the Framework at paragraph 145(d). There is no definition in the Framework or the CELP of 'materially' larger, accordingly this is a matter of planning judgement having regard to the particular circumstances of the case.
7. The proposal is for a replacement dwelling, the existing property is a detached 1 ½ storey bungalow. The Council has provided a number of figures showing the increase in gross external floor space being some 133%, the eaves height increasing by 116% and the increase to the ridge height being over some 50%. These figures have not been disputed by the appellant. However, figures were provided in the '*Planning Statement*¹', accompanying the planning application, this indicate some 90% increase in floor area, 110% increase in volume and 20% increase in footprint. Even, if these were gross internal area measurements, as the Council suggest, there would be a significant increase in comparison to the original dwelling. As such, the replacement dwelling would result in a building being more than double of the original building it would replace.
8. Furthermore, the proposals would result in a dwelling that would be significantly greater in scale, bulk, mass including the addition of a first floor spanning across the dwelling and increases in roof height. Despite landscaping it would still have a visual prominence in the street scene. Taking this into account, the proposed increase in size and built form would clearly result in the replacement dwelling being materially larger than the existing property.
9. The appellant considers that the development should be considered under paragraph 145 (e) of the Framework, which makes provision for limited infilling in villages. However, as the site currently accommodates a dwelling and there is no gap to infill, I consider the appeal fails to be considered under paragraph 145(e). However, even, if I were to accept the appellants' contention around limited infilling in villages, the proposal does not meet the criterion set out at paragraph 145(d).
10. For the reasons given above, although the replacement building would be in the same use, it would result in a replacement building being materially larger than the existing building. As such, the proposal does not satisfy the exception in Policy PG3 (3.iv) of the CELP and paragraph 145(d) of the Framework, and it would form inappropriate development in the Green Belt.

Openness

11. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual and spatial element.

¹ Planning Statement Ref 19-589

12. The proposal would result in the erection of a sizeable two storey detached dwelling with increased car parking, hardstanding and associated domestic paraphernalia. It would increase built form at the appeal site with its height, width, floor space and volume. Therefore, having an adverse impact on openness. Despite existing landscaping, the site is clearly visible from public views along Mereside Road, there would be glancing views at the rear from along The Circle. It would be viewed from the immediate street scene including those surrounding properties, given the proposal is for additional built form, it would be clearly discernible in those views.
13. For the above reasons, the proposed development would harm the openness of the Green Belt in both visual and spatial terms. The scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

Other Considerations

14. Reference has been made to Saved Policy GC12 of the Macclesfield Borough Local Plan 2004, Saved 2008. However, this policy relates to alterations and extensions to existing houses, unlike the proposal before me which is for a replacement dwelling. Moreover, it is also not without caveats, including that the scale and appearance of the house is not significantly altered. I therefore afford this no weight in consideration of this case.
15. The appellant relies heavily on two previous applications 'fallbacks', one being a certificate of lawfulness² of proposed development for extensions and an ancillary outbuilding. The other is for planning permission for extensions including roof alterations and garden room extension³ which rationalises the permitted development proposals. The permitted rights have not been implemented and therefore do not constitute a baseline for the assessment for the purposes of the Green Belt. Nonetheless, there is a greater than theoretical possibility that the 'fallback' scheme would be implemented if the appeal were to fail, I therefore afford this significant weight in my decision.
16. The consent for planning permission relates to the erection of a standalone office/garden room/gym to the west of the site. I note that this is outlined on the proposed plans before me and could still be accommodated in the appeal site with the replacement dwelling. The proposed domestic extensions to the dwelling would increase the footprint and ridge height to enable a larger bedroom in the roof space with balcony area facing west.
17. It is acknowledged that there would be a reduction in the overall floor space with the proposed replacement dwelling compared to that of the 'fallback' scheme. However, the proposal would result in a significant increase in the maximum height resulting in an increase in mass and built form. Moreover, there would be a substantial increase in the floorspace at first floor level compared to the 'fallback' as the majority of the ground floor has been relocated to the first floor. I consider the 'fallback' scheme would not be significantly more harmful and have a lesser impact on the openness of the Green Belt than the appeal scheme. Therefore, I have given it limited weight.

² 19/2107M

³ 19/3428M

18. The appellant refers to the GPDO⁴ amendments for Class AA and that the application should have been considered on this basis. However, at the time of the application the legislation had not been brought into force. Furthermore, I have not been provided with any evidence that the existing property would meet the limitations as set out in Class AA of the GPDO. In the absence of any prior approval consent, I attach no weight to this consideration.
19. I understand other developments have been granted by the Council in nearby areas. I have been provided with limited details of them, although there may be some similarities with the appeal scheme. The appellant suggests that the Council have been inconsistent and made inaccurate assertions, but these do not affect the precise circumstances of the appeal scheme. Nonetheless, these matters do not diminish the concerns I have identified in relation to the proposal in the context of the appeal site nor the harm I have identified in respect of the main issue. In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.

Planning Balance and Conclusion

20. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness, which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
21. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and the other harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
22. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
23. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR

⁴ The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended