



Appeal Decisions

Hearing Held on 3 February 2021

Site visit made on 5 February 2021

by Chris Baxter BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal A Ref: APP/R0660/W/20/3252110

Stone Cottage, 14 Summerhill Road, Prestbury SK10 4AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Howard Bilton against the decision of Cheshire East Council.
 - The application Ref 19/4167M, dated 2 September 2019, was refused by notice dated 7 November 2019.
 - The development proposed is described as "construction of three infill dwellings with shared access".
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Appeal B Ref: APP/R0660/W/20/3252114

Stone Cottage, 14 Summerhill Road, Prestbury SK10 4AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Mr Howard Bilton against Cheshire East Council.
 - The application Ref 19/5660M, is dated 6 December 2019.
 - The development proposed is described as "construction of two infill dwellings with shared access (resubmission of 19/4167M)".
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Decision

Appeal A Ref: APP/R0660/W/20/3252110

1. The appeal is dismissed.

Appeal B Ref: APP/R0660/W/20/3252114

2. Appeal B is allowed and outline planning permission is granted for the construction of two infill dwellings with shared access at Stone Cottage, 14 Summerhill Road, Prestbury SK10 4AH, in accordance with the terms of the application, Ref 19/5660M, dated 6 December 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

3. As set out above there are two appeals. They differ in the detail of layout and number of proposed residential units. I have considered each proposal on its own merits. However, to avoid duplication I have dealt with the two schemes together except where otherwise indicated.
 4. Both appeals seek outline planning permission with all matters reserved except access. I have determined the appeals on this basis.
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Main Issues

5. The main issues are:

- i) Whether or not the proposals would be inappropriate development in the Green Belt;
- ii) The effects of the proposals on openness; and
- iii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances necessary to justify the proposals.

Reasons

Whether inappropriate development

- 6. Policy PG3 of the Cheshire East Local Plan 2017 (CELP) relates to development within the Green Belt. This policy is consistent with paragraph 145 of the National Planning Policy Framework (the Framework) which states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless the development falls within the exceptions list. This list includes limited infilling in villages.
- 7. The Council confirmed at the Hearing that the properties on Summerhill Road, including the property of Stone Cottage, are within the village of Prestbury. The Council indicates that appeal sites are not located within the settlement boundary of Prestbury as allocated in the Local Plan. However, whilst this is a consideration it is not a determinative factor when deciding on whether a particular site is classed as being within a village location. My attention has been drawn to a certificate of lawfulness¹ which confirms that the appeal sites form part of the residential curtilage with Stone Cottage. The Council does not consider the Kings School site, the rugby pitches to the south and the golf course to the north to be part of Prestbury village.
- 8. Having regard to the location of the appeal sites and its surroundings, including the settlement boundaries of Prestbury and the status of the land with regards to forming part of the curtilage with Stone Cottage. I consider that that the appeal sites are located within the village of Prestbury.
- 9. The terms 'limited' and 'infilling' are not defined in the Framework however, the glossary of the CELP defines infill development as "*the development of a relatively small gap between existing buildings*". The Macclesfield Borough Local Plan 2004 (MBLP) also provides a definition for infilling, being "*the filling of a small gap in an otherwise built-up frontage (a small gap is one which could be filled by one or two houses)*".
- 10. I have had regard to the definitions in the CELP and the MBLP, as well as the nature and size of the proposed developments, the location of the appeal sites and their relationship to other, existing development adjoining and adjacent to it.
- 11. The properties on Summerhill Road are laid in a linear form positioned either side of the road. The existing properties are large in size with spacious garden areas surrounding the properties. The illustrative layout plans submitted with

¹ Local Planning Reference: 11/2251M

both appeals show the proposed properties and plots to be relative in size to the existing form of neighbouring development.

12. With regards to Appeal B, the property of 9 Summerhill Road (No 9) lies immediately east of the site with the large sports building of the King's School site located on the boundary to the west of the appeal site. The position of No 9 and the sports building forms a gap within the linear built up frontage. The proposed siting of the properties in Appeal B would infill a gap between existing buildings and given the layout and form of development in the area in relation to the size of the development proposed, I consider this to be the infilling of a relatively small gap. I therefore find, in respect of Appeal B, that the proposal would be limited infilling in the village of Prestbury and would not be inappropriate development in the Green Belt.
13. Turning to Appeal A, the property of Stone Cottage is located directly east of the proposed plot 1. Proposed plots 2 and 3 would be to the south and south east of plot 1. There are no buildings immediately to the west or north of plot 1, with an engineered drainage basin and trees bounding the site to the west and the golf course to the north. The King's School main building is located west of plot 1 beyond the drainage basin and tree belt. However, given the location and proximity of this school building from plot 1 and also noting that the width of plot 1 would be similar to the widths of other plots in the area, it would nevertheless not form a small gap with adjacent built development. Having regard to existing development in the area, including the proposed properties for plots 2 and 3, and the definitions of infill in the CELP and the MBLP, the proposed property on plot 1 would not infill a small gap between existing buildings or within an existing built frontage.
14. The proposed properties on plots 2 and 3 of Appeal A are similar to those properties proposed in Appeal B. Given my findings in Appeal B, plots 2 and 3 of Appeal A would be the infilling of a relatively small gap. However, as I have found that plot 1 is not infill development, I conclude that overall the proposals in Appeal A would not be limited infilling in a village and would be inappropriate development in the Green Belt.
15. Policy PG3 of the CELP and the Framework states that new development in the Green Belt would not be inappropriate if development is limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. The parties have agreed that the appeal sites are previously developed land, therefore as the proposals can fall within the parameters set out in this part of Policy PG3 and paragraph 145 (g) I will consider the impact of the proposals on openness below.

Openness

16. Paragraph 133 of the Framework indicates that openness is an essential characteristic of the Green Belt. Whilst there are some buildings situated on site, these are relatively small and the majority of the sites are open grassland. Whilst the proposals are only in outline, the submitted layout plans indicate that the floor spaces of the proposed properties would be significantly larger than those of the existing buildings on site. In spatial terms, the proposal would have a greater impact on the openness of the Green Belt.

17. Visual impacts forms part of the concept of openness of the Green Belt, and whilst the sites may not be highly visible from wider areas, they are prominent when viewed in closer proximity and particularly from some properties on Summerhill Road, the King's School and the public footpath which runs along the south boundary of the appeal sites. There is a mix of hedgerow and mature trees which are located within the sites as well as surrounding the sites however, these would not completely screen the proposed developments, particularly when viewed from close proximity. I have also had regard to the topography of the site and surrounding area, as well as adjoining land uses. Nevertheless, the proposals would introduce large properties onto land which is mainly open grass land. The proposed properties would have a greater visual impact within the surrounding area.
18. The appellant has indicated that further landscaping could be introduced, secured by planning conditions, to help in screening the proposals. I do not consider sufficient landscaping could be provided that would result in the large proposed properties being screened to an extent that would not harm the openness of the area.
19. Whilst having regard to relevant Court Judgements that have been brought to my attention, including *Samuel Smith Old Brewery v North Yorkshire CC*, the proposed developments would have a greater impact on the openness of the Green Belt than the existing development and would not accord with Policy PG3 of the CELP and paragraphs 133, 134 and 145 of the Framework.

Other considerations

20. The proposed layouts indicate that the properties would be of similar footprint to neighbouring residential properties. Further details could be provided on appearance, size, materials to ensure that the proposals would not have a harmful effect on the character and appearance of the surrounding area. Due to the positioning of the proposed properties, the living conditions of occupiers of neighbouring dwellings and the proposed properties would not be detrimentally affected. Highway safety would also not be compromised as a result of the proposed developments.
21. I have had regard to examples of other decisions detailed in the appellants statement of case and discussed at the Hearing, including those developments at Holme Acre, land adjacent to Highlands, Alstonfield, Frog Lane and Rectory Farm. I do not consider these other schemes to be directly comparable to the appeal schemes particularly with regards to the siting of the proposed properties, location of surrounding built development and infilling of a relatively small gap. In any case, I have determined the appeals on their own merits.
22. I also have had regard to the previous appeal decision² on this site. The built development in the area has changed significantly since this decision was issued. The Inspector for this previous decision was aware that the Kings School site had permission however, it had not been implemented and the buildings were not constructed. The construction of Kings School, in particular the location of the sports hall building has dramatically changed the circumstances with regards to the consideration of infill development.

² Planning Inspectorate Reference Number: APP/R0660/W/16/3161722

Conditions

23. The conditions imposed are those that were agreed by the appellant and the Council. In the interests of precision and clarity I have undertaken some minor editing and rationalisation.
24. Conditions relating to timeliness, the submission of reserved matters, and the identification of plans are necessary in the interests of proper planning and to provide certainty. To encourage sustainable forms of travel a condition is imposed for electric vehicle charging. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage, ecological matters and contamination. The Council had suggested a number of conditions in relation to contamination however, in the interests of precision and clarity and given the size of the development, I have condensed the requirements into a single condition.

Conclusions

25. The scheme subject of Appeal A would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. Even when taking together, the other considerations reviewed above, do not clearly outweigh the Green Belt harm and therefore no very special circumstances exist. The proposed in Appeal A would be inappropriate development in the Green Belt and would be contrary to Policy PG3 of the CELP and paragraph 145 of the Framework.
26. I conclude that the scheme subject of Appeal B would be limited infilling in the village of Prestbury and would not be inappropriate development in the Green Belt. The proposal would be in accordance with Policy PG3 of the CELP and paragraph 145 of the Framework.
27. For the reasons set out above, I conclude that Appeal A should be dismissed and Appeal B should be allowed.

Chris Baxter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Rawdon Gascoinge	Planning Consultant
Jonathan Easton	Counsel
Howard Bilton	Appellant
Jonathan Jackson	Supporter

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Keen	Cheshire East Council
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Schedule of Conditions – Appeal B Ref: APP/R0660/W/20/3252114

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 828 PL01 A; 828 PL02 A; 828 PL03 A; 828 PL04 A.
- 5) No removal of any vegetation or the demolition or conversion of buildings shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone taking place.
- 6) Any future reserved matters application shall be supported by a strategy for the incorporation of features to enhance the biodiversity value of the proposed development. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow and roosting bats, gaps in garden fences to facilitate the movement of hedgehogs, brash/deadwood piles, and native species planting. The proposals shall be permanently installed in accordance with approved details.
- 7) Prior to first occupation of the property, an Electric Vehicle Infrastructure plan shall be submitted to and agreed in writing by the LPA. The Infrastructure plan shall aim to meet the following specification:
 - a) A single Mode 3 compliant Electric Vehicle Charging Point per property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kW fast charging or the best available given the electrical infrastructure.
 - b) Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to this office prior to discharge.
 - c) Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted.
 - d) The infrastructure shall be implemented and maintained throughout the use of the development.
- 8) (a) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site.

(b) Prior to occupation, evidence and verification information (for example, laboratory certificates) of the tests carried out shall be submitted to and approved in writing by the Local Planning Authority.

- 9) 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, 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 14 days of the report being completed and approved in writing by the local planning authority.
- 10) No development shall commence until an overall detailed strategy / design limiting the surface water runoff generated by the proposed development, associated management/maintenance plan and managing any overland flow routes for the site has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details. The drainage design must also include information about the design storm period and intensity (1 in 30 & 1 in 100 + % allowance for climate change) and any temporary storage facilities included, to ensure adequate drainage is implemented on site.
- 11) No development shall commence until details of existing ground levels, proposed ground levels and the level of proposed floor slabs have been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details. No levels should be raised on site that may result in the flooding off site. If the levels need to be raised then the site boundary will need to be adequately protected to ensure that any flood risk is contained and managed onsite and not transferred off site.