



Appeal Decision

Site Visit made on 13 June 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2021

Appeal Ref: APP/R0660/W/21/3270030

The Nook, Chelford Road, Henbury SK10 3LH

- 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 C Oldfield against the decision of Cheshire East Council.
 - The application Ref 20/4436M, dated 6 October 2020, was refused by notice dated 21 January 2021.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - ii) the effect of the proposal on the openness of the Green Belt, and;
 - iii) if the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development in the Green Belt

3. The appeal property lies within the Green Belt. National policy on development in the Green Belt is set out in the Framework, which advises that the essential characteristics of Green Belts are their openness and permanence. There is a general presumption against inappropriate development in the Green Belt unless very special circumstances exist. Most new development should be regarded as inappropriate, but for certain defined exceptions.
4. Paragraph 145 of the Framework and Policy PG3 of the Local Plan (2017) lists exceptions to inappropriate development within the Green Belt and in doing so states that the construction of new buildings should be regarded as inappropriate in the Green Belt unless the exceptions listed apply. Exception d) refers to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. There is no

dispute between parties over the use of the existing and replacement building and there is nothing within the evidence before me to suggest that I should take a different view.

5. The test, therefore, in respect of paragraph 145 (d) and Policy PG3 is whether the replacement building is materially larger than the one it replaces. The assessment is primarily an objective one with reference to size. The footprint of the replacement building would be notably larger than the footprint of the existing building. The replacement building would also be much larger in floorspace, built volume and height. The appellant agrees with this position, acknowledging that the proposed dwelling would be materially larger than the existing dwelling and therefore very special circumstances need to be demonstrated.
6. The development, therefore, would not meet exception d) of the Framework and Policy PG3. As such, the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies. Inappropriate development is, by definition, harmful to the Green Belt and the Framework directs that substantial weight should be given to this harm.

Effect on Openness

7. The Framework (paragraph 133) indicates that openness is an essential characteristic of the Green Belt with a fundamental aim of Green Belt policy being to prevent urban sprawl and keep land permanently open.
8. The replacement dwelling, whilst within a line of existing built development, would occupy a larger area of the site than the existing property, both in terms of floorspace and volumetrically. Whilst a significant proportion of the bulk and mass of the dwelling would be to the rear, this would be visible in glimpsed views around the site. Furthermore, the increased provision of parking to the front of the site and the comings and goings associated with this would result in the replacement dwelling appearing more prominent and conspicuous in the street scene. All in all, the proposal would reduce the openness of the Green Belt.
9. National and local planning policy supports limited infilling in the Green Belt. However, as set out in the Framework and Policy PG3, it is not a foregone conclusion that infill development would preserve openness. For limited infilling outside of villages for example, the development should not have a greater impact on the openness of the Green Belt than existing development. I have found that, despite the appeal proposal being within a ribbon of development, it would not preserve openness for the reasons given.
10. And so, the replacement dwelling would reduce and therefore result in significant harm to the openness of the Green Belt. This is contrary to one of the main aims of Green Belt policy at the local and national level. In accordance with the Framework, substantial weight must be given to this harm.

Other considerations

11. The Framework advises that inappropriate development in the Green Belt should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by

reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations

12. The appellant has cited several reasons in support of the appeal proposal, firstly the fallback position, that of applications 20/1232M and 20/1273M which the appellant suggests could be implemented if the appeal is dismissed. The Court of Appeal clarified the concept of 'fallback', confirming that there should be a 'real prospect' of a fallback being implemented.
13. Each of the permissions mentioned would provide the appellant with an extra bedroom and additional living space which the appeal proposal is also seeking. On that basis, it seems likely that, if the appeal was dismissed, the appellant would obtain the desired increase in property value and amount of accommodation via the fallback position. Furthermore, it would be possible for the appellant to construct both the single storey rear extension (ref 20/1273M) and that identified in the certificate of lawful development (ref 20/1232M). There is, therefore, a real prospect of the fallback being implemented.
14. The fallback position would result in a development that overall would be larger than the appeal proposal, owing largely to the outbuilding. The outbuilding would introduce development into an area that is otherwise open, visually and spatially, and so would have a more harmful effect on the openness of the Green Belt. On the other hand, the dwelling under the fallback position would not be as tall as the appeal dwelling and its bulk and mass overall would be less. When considering the fallback position in the round, it would result in a similar degree of harm to the Green Belt as the appeal proposal. The fallback, therefore, carries moderate weight in the appeal.
15. The benefit of replacing the existing property with a more energy efficient one is recognised. However, there is nothing within the evidence before me to suggest that refurbishing the existing dwelling could not be equally energy efficient. Furthermore, as the development is for one dwelling, the benefit of the appeal proposal with regards to energy efficiency carries limited weight.
16. It is not disputed that the site is within a sustainable location and is therefore compliant with the Local Plan (2017) which, amongst other things, seeks development that is accessible, well-designed and contributes positively to the local need for housing. Given that the proposal is for one dwelling, this carries limited weight.
17. Properties within the vicinity of the site that have been extended do not set a precedent for the appeal proposal given that the latter is for a replacement dwelling. I see from the appellant's evidence that permission was granted in 2019 for a new detached dwelling at Birchwood but I have no details of the Council's decision or its reasoning to make fair or reasonable comparisons with the appeal proposal and in favour of it.

Planning balance

18. The proposal would amount to inappropriate development as defined by the Framework, and which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the proposal would lead to a loss of openness to the Green Belt. Substantial weight is given to the harm to the Green Belt. Very special circumstances will

not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

19. I give moderate weight to the other considerations. These, taken together, do not clearly outweigh the harm the scheme would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.

Conclusion

20. For the reasons set out, the proposal would conflict with the development plan when taken as a whole. Material considerations put forward in this case do not indicate that permission should be granted despite this conflict. Therefore, the appeal is dismissed.

R Walmsley

INSPECTOR