



Appeal Decision

Virtual Hearing Held on 5 May 2021

Site Visit made on 6 May 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2021

Appeal Ref: APP/R0660/W/20/3259305

Prestbury Lodge, 107 Macclesfield Road, Prestbury SK10 4AG

- 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 Jim Mole against Cheshire East Council.
 - The application Ref 20/2574M, is dated 19 June 2020.
 - The development proposed is outline application for the demolition of existing dwelling, construction of replacement dwelling and one infill dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for outline application for the demolition of existing dwelling, construction of replacement dwelling and one infill dwelling at Prestbury Lodge, 107 Macclesfield Road, Prestbury SK10 4AG in accordance with the terms of the application, Ref 20/2574M, dated 19 June 2020, and the plans submitted with it, subject to the following conditions set out in the schedule attached to this decision.

Procedural Matters

2. The Council have not issued a refusal notice. However, I have had regard to the Council's accompanying statement of case, in so far that it provides clarity in terms of the reasons why the Council would have refused planning permission had it been able to do so. The main issues as set out below were drawn from the statement and agreed by the parties at the Hearing.
3. The application was submitted in outline. The application form indicates that approval was sought for access and scale, with the matters of appearance, landscaping and layout reserved for future approval, the Council dealt with the application on this basis and so shall I. The appellant has provided indicative plans relating to the site layout and cross sections to illustrate how the properties could be accommodated in the site. I have therefore taken these into account in so far as establishing whether it would be possible, in principle, to erect the dwellings on the site.

Main Issues

4. 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

- If the proposal would be inappropriate development, 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

Whether inappropriate development

5. 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.
6. Exceptions set out in the Framework; include paragraph 145(d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, and paragraph 145(e) limited infilling in villages.
7. At the Hearing, both parties agreed that Saved Policy GC1, of the Macclesfield Borough Local Plan, 2004 (MBLP) which relates to new buildings in the Green Belt is inconsistent with the wording in the Framework. Policy PG3 of the Cheshire East Local Plan, Local Plan Strategy 2010-2030, 2017 (CELP) sets out the relevant criteria exceptions for the construction of new buildings in the Green Belt, and that permission will not be granted for inappropriate development, except in very special circumstances, it is consistent, and in accordance with the Framework.
8. The appeal site is located within the Green Belt and the proposal consists of two elements. 'Plot 1' being the construction of a new two-storey dwelling within the garden area of Prestbury Lodge and 'Plot 2' involving the demolition of the existing property with the replacement of a two-storey dwelling.
9. The Council at the Hearing confirmed that the appeal site falls outside of the settlement boundary of Prestbury, which is classed as a village within the Local Plan. Both parties agree that the site is within the Prestbury Parish, and my attention was drawn to the Prestbury Village Design Statement, Supplementary Planning Document, 2007, in particular Appendix 6 - the Macclesfield Road, Middle and South map.
10. In regard to 'Plot 1', the Council consider that the notion of 'limited infilling in villages' is unqualified. There is no definition in the Framework, but the glossary to the CELP defines it as '*The development of a relatively small gap between existing buildings*'. The MBLP also sets out a definition, '*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)*'.
11. The properties along Macclesfield Road are of a linear form, the appeal site is positioned along the east side. Although, there appears to be a gap between properties towards the north from No.101, there is an otherwise built up frontage of those houses to the south forming No's. 101, 103, 105 and the appeal site. The existing properties are large and set in substantial grounds,

- with the appeal site having almost double the size of the plot widths in comparison to those immediately to the north.
12. The existing garden area of 'Prestbury Lodge' would be sub-divided to create the two plots, with 'Plot 1' being the closest to No.105. The new plot sizes would be of an average plot width in comparison to others and each plot would be capable of accommodating a dwelling. There would be no encroachment into the countryside and the indicative plans show how the proposals would assimilate into the immediate and wider site context and the character of the area. Taking these factors together, the proposed dwelling 'Plot 1' would fill a relatively small gap between the replacement dwelling 'Plot 2' and the existing property at No.105, as such, it would represent limited infilling.
 13. At the Hearing, the Council maintained there was a clear distinction between Prestbury Village and the appeal site, particularly in relation to existing development on the east in comparison to the west. I have had regard to the judgement¹, in considering whether a settlement is a village or whether a site is in a village as the local plan boundary of a village is not determinative for that purpose. Therefore, it is necessary to consider the situation "on the ground" as well as any relevant policies. It is a matter of judgement depending on those factors.
 14. In this case, although falling outside of the settlement boundary on the proposals map, Prestbury contains a significant amount of residential properties. There are also several local services nearby, including a nursery, school, leisure centre and recreational fields opposite. I also observed that there were bus stops immediately and adjacent to the site, along Macclesfield Road. Despite, the centre of the village being some distance away for day-to-day services, it would still be accessible by other means if necessary, including walking or cycling and, even if, cars were the primary use the journeys would be a short distance. Moreover, just because occupants may choose to frequent other services in the nearby town of Macclesfield instead of the village centre, this is not a reason in itself to dismiss the appeal.
 15. I accept that there is a more apparent continuous line of development along the west of Macclesfield Road to Summerhill Road and along the east it becomes more sporadic from No.79 until reaching No.101. However, there still appears to be built form set back from the main roadway, which is visible, and along the east there are continuous footpaths towards the village centre, unlike the west where there are none.
 16. The appeal site forms part of a group of four houses to the southern end of Macclesfield Road, and it is not clearly defined that they would appear, or be seen in isolation to those properties to the north on both the east and the west sides. From my observations, although the site lies away from the main village cluster of development, it would form part of the linear pattern of development along Macclesfield Road from the main built up area. Therefore, taking these considerations together I find that the proposal would amount to limited infilling within a village.
 17. In terms, of 'Plot 2', the replacement dwelling, the main parties agree that subject to an appropriately designed reserved matters submission the proposed dwelling would not be inappropriate development in the Green Belt.

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

Nonetheless, the matters to be considered in this case included scale – *‘the height, width and length of each building proposed within the development in relation to its surroundings’*².

18. 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. At the Hearing, the appellant confirmed the comparative figures for the replacement dwelling with the existing. These are set out in the statement of case, which also formed the ‘Planning Statement’³ with the original submission for the outline application. Table 1 - footprint calculations indicated some 25.3% increase, Table 2 – volume calculations is indicated some 14.7% increase and Table 3 – Height, was +1m in height. The parties agreed at the Hearing that there was the potential for a suitably worded condition that could ensure that these parameters were adhered to in any subsequent reserved matters.
19. Although the footprint would be over 25% there would be a modest increase in volume. Therefore, having regard to the scale parameters put forward, the comparative plot widths and the context of the appeal site and its wider surroundings. I consider that the proposed dwelling would not be materially larger than the one it replaces.
20. For the reasons given above, I conclude that the proposed development would not be inappropriate development in the Green Belt, it would be limited infilling in a village and the replacement building would be in the same use and not be materially larger than the one it would replace. There would be no conflict with Policy PG3 of the CELP and it would be in accordance with the criterion set out at paragraph 145 (d) and (e) of the Framework.
21. As I have found that the proposed development would not be inappropriate development in the Green Belt, there is no requirement for a subsequent assessment of the effect of the development on the openness of the Green Belt, or the impact on Green Belt purposes, having also regard to the judgement in the Court of Appeal⁴.
22. Moreover, given that the proposed development would not amount to inappropriate development, there is no need for me to assess other considerations, and whether very special circumstances exist in order to justify the development.

Other Matters

23. In coming to my decision, I have had regard to other developments granted by the Council in nearby areas, appeal decisions the appellant has put forward at the Hearing and within their statement of case, including the recent decision at Stone Cottage⁵. Although, there may be some similarities with the appeal scheme, I do not consider these are directly comparable with the appeal site with regard to the siting, location of built development, scale parameters and infilling of a small gap. In any case I have considered the appeal proposal on its own merits.

² PPG Paragraph: 006 Reference ID: 14-006-20140306, Revision date: 06 03 2014

³ Planning Statement, Project 19-219, dated 18 June 2020

⁴ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

⁵ APP/R0660/W/20/3252110 & APP/R0660/W/20/3252114

Conditions

24. I have considered the conditions suggested by the Council, and in light of the Planning Practice Guidance (PPG). The appellant has made clear which conditions are deemed to be acceptable, including those that are pre commencement. For clarity, precision and to ensure compliance with the PPG, I have undertaken some minor editing and rationalisation.
25. I have attached conditions related to the time scale for reserved matters applications and commencement of development to ensure it is carried out in a timely manner. Condition (4) is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. Condition (5) is relevant to the development being permitted and necessary for the scale parameters to be included.
26. I have imposed conditions (6), (7), (8) in the interests of protecting wildlife and ecology at the site, condition (9) is necessary relating to trees, as there a number of trees on the site that would require protection during construction and in the interests of the character and appearance of the area. Condition (10), relating to electric vehicle charging points, is required in accordance with paragraph 110 e) of the Framework. Condition (11) is necessary to alleviate any flood risk at the site.

Conclusion

27. The proposed development would not be inappropriate development in the Green Belt and would not conflict with 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.
28. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

KA Taylor

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Jim Mole
Mr Nick Smith BA (Hons), DIP TP, MRTPI

Appellant
Emery Planning

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Keen

Cheshire East Council

Appeal Ref: APP/R0660/W/20/3259305
Prestbury Lodge, 107 Macclesfield Road, Prestbury SK10 4AG

Schedule of conditions attached to planning permission

- 1) Details of the appearance, landscaping, and layout, (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: AR-E-100-ST-001 Rev A, AR-X-100-ST-001 Rev A.
- 5) The development hereby permitted shall be carried out in accordance with the scale parameters as set out within Table 1, Table 2 and Table 3 of the 'Planning Statement, Project 19-219, dated 18 June 2020' which accompanied the outline application.
- 6) No removal of any vegetation or the demolition 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 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.
- 7) The proposed development shall be carried out in accordance with the recommendation made by section 5.1 of the submitted Bat Activity Survey Report (Elite Ecology, May 2020). If any future Reserved Matters are submitted following a period of two years from the date of this decision, an updated survey will be required to be submitted to and approved in writing by the Local Planning Authority. Agreed features for roosting bats shall be permanently installed in accordance with the approved details.
- 8) Concurrent with the first Reserved Matters submission, detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrows, shall be submitted to and approved in writing by the Local Planning Authority. The approved features shall be permanently installed prior to the first occupation of the development hereby permitted and thereafter retained.

- 9) Concurrent with the first Reserved Matters submission an updated Arboricultural Impact Assessment which reflects any alterations to the outline application, method statement and special engineered surface details shall be submitted to and approved in writing with the Local Planning Authority. All works on site shall be undertaken in accordance with the approved details.
- 10) Prior to the first occupation of the properties, an Electric Vehicle Infrastructure plan shall be submitted to and agreed in writing by the Local Planning Authority. 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,
 - i) independently wired to a 30A spur to enable minimum 7kW fast charging or the best available given the electrical infrastructure.
 - ii) Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to the local planning authority prior to discharge.
 - iii) Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted.
 - iv) The infrastructure shall be implemented and maintained throughout the use of the development.
- 11) No development shall commence until full details of the 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 be carried out in accordance with the approved levels. No levels should be raised on site that may result in the flooding offsite. 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.