



Appeal Decision

Site visit made on 14 December 2021

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2022

Appeal Ref: APP/A0665/W/21/3281043

Forrest Hill House, Yeld Lane, Kelsall, Northwich CW6 0TB

- 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 Chris & Carrie Denham against the decision of Cheshire West and Chester Council.
 - The application Ref 21/00204/FUL, dated 15 January 2021, was refused by notice dated 20 May 2021.
 - The development proposed is a replacement of existing 5-bedroom dwelling to provide a 4-bedroom dwelling and associated operations (retaining the existing garage and outbuilding).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the development on the character and appearance of the area; and
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

3. The appeal site is situated in the Green Belt. The National Planning Policy Framework (Framework) states (at para 149) that, other than in connection with a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One of the exceptions 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 STRAT 9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (Local Plan Part One) sets out that development in areas within the Green Belt will be subject to additional restrictions in line with the Framework.

4. There is no dispute between the parties that the development is for the replacement of a building, with a new building in the same use and that the replacement building would be materially larger in terms of floor area and volume. I have no reason to take a different view, and as such, the proposed development would be inappropriate development in the Green Belt, which paragraph 147 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. As well as being contrary to the Framework, the proposal would conflict with Local Plan Part One Policy STRAT 9 which requires development within the Green Belt to be in line with the Framework. The proposal would also be contrary to Policy DM 21 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (Local Plan Part Two), which states, amongst other matters, that a replacement dwelling in the Green Belt should not be materially larger than the existing dwelling.

Openness of the Green Belt

6. The Framework (para 137) states that openness is an essential characteristic of the Green Belt. As there is no dispute that the appeal development would be materially larger than the existing building, it would result in a loss of openness to the Green Belt both spatially as a result of its larger size, and visually as it would be more prominent. When considering individual aspects of the development, such as the retained garage, I acknowledge that this would have a neutral effect on openness, and that other elements, such as the removal of the greenhouse, would represent slight improvements to openness. However, the latter is a small structure and overall, given the large increase in the size of the proposed dwelling from that which is existing, it would fail to preserve the openness of the Green Belt. The development would therefore be contrary to paragraph 137 of the Framework.

Character and Appearance

7. The appeal site is located on a rural lane off which are intermittent buildings that can be seen between and over hedges and trees that bound the road. The varying land levels provide views from the lane over surrounding fields which, alongside the sporadic nature of development, results in the area having a distinctly rural character.
8. The main two storey section of the existing dwelling has a simple appearance. However, it has been subject to various alterations, most notably the addition of a UPVC conservatory on the elevation facing Yeld Lane. Whilst the proposal would have three large gable elements, given the orientation of the proposed dwelling, these would be at right angles to the road. The proposal would present an elevation with traditional window proportions and detailing to Yeld Lane and this, along with the proposed walling and roofing materials, would ensure the proposed dwelling would not be detrimental to its rural surroundings.
9. In conclusion, the proposal would not unduly harm the character and appearance of the area. As such, the proposal would not conflict with Local Plan Part One Policy ENV 6 or with Local Plan Part Two Policies DM 3 or DM 21 which seek development to, amongst other matters, respect local character and achieve high standards of design. It would also not be contrary to guidance within Section 12 of the Framework.

Other Considerations

10. The appellant has stated that the appeal property benefits from full permitted development rights and has provided details of a Lawful Development Certificate¹ (LDC) which has been issued for various extensions and outbuildings at the appeal site. The appellant considers this alternative scheme would provide a comparable amount of accommodation to the proposal and would be implemented if this appeal does not succeed.
11. Unlike the appeal development, this fallback position provides most of the accommodation on the ground floor. Whilst I recognise that different layout in the two schemes, I can see from the information presented the similarities in the number of bedrooms and in the other accommodation proposed. I therefore accept that the LDC scheme represents a fall-back position which is likely to be implemented if this appeal is dismissed.
12. I recognise that the LDC scheme would be larger than the appeal proposal in terms of the overall volume and floor area. It would also extend over a greater land area compared to the more concentrated form of development towards the centre of the site that is proposed. Despite this, the LDC scheme would be predominantly single storey with a limited two storey element to the rear. The replacement dwelling, to the contrary, would almost entirely be a two storey building and would not be as well screened by boundary planting. It would thus be visually more prominent due to its larger volume at first floor level. I appreciate the efforts to reduce its scale using the three gabled elements, but its larger mass at first floor level than the LDC scheme would have a greater visual impact on the openness of the Green Belt.
13. My attention has been drawn to a number of decisions relating to replacement dwellings in Cheshire East and reference has been made to similar scale properties in the area. I have not been provided with the full circumstances of these cases, but I can see the relevance of these to the appeal development insofar as they considered the respective fallback positions that were advanced. What is also evident, looking at the information presented, is that those decisions were reached based upon the specific circumstances of the cases, including the effect on openness, relative to the fallback position presented in each instance. Whilst the appeal development may be smaller than one of the examples referenced, it does not automatically follow that it should be supported. I have set out earlier in this decision the harm that would arise from the proposed development and the reasons why the fallback position would not have a lesser effect on the openness of the Green Belt. I attach only limited weight to these decisions or to the appeal decisions referenced given that they were responding to their specific circumstances.
14. A number of other benefits of the revised scheme have been set out, including the improved energy efficiency of the replacement dwelling and the design improvement over the existing building. Although I was able to see the condition of the existing dwelling, there is no substantive evidence before me relating to structural issues that the appellant references and I am therefore not convinced that similar benefits could not be provided through the extension and alteration of the existing dwelling. As such, I only afford these matters limited weight in favour of the proposal.

¹ LPA Ref: 20/03133/LDC

15. It has been set out that the proposal is acceptable in relation to highway safety, ecology and residential amenity. These matters, as well as the site not being within a conservation area or within the setting of a listed building are neutral considerations and not matters which weigh in favour of the appeal proposal.

Conclusion

16. I have found that the appeal development would be inappropriate development, which the Framework clearly sets out is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
17. There would not be harm caused to the character and appearance of the area, but such a lack of harm is a neutral matter.
18. I have set out the other considerations and, for the reasons I have given, this leads me to attach limited weight to them in favour of the scheme.
19. With this in mind, the substantial weight I have given to the Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
20. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR