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# Appeal Decision

Site visit made on 2 August 2022

**by Sarah Manchester BSc MSc PhD MEnvSc**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> September 2022**

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**Appeal Ref: APP/P3420/W/22/3291339**

**Cranberry Cottage Post Office Lane, Balterley, Crewe, CW2 5QD**

- 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 and Mrs S and R Hutchins against the decision of Newcastle-under-Lyme Borough Council.
  - The application Ref 21/00192/FUL, dated 18 February 2021, was refused by notice dated 29 November 2021.
  - The development proposed is replacement dwelling (Use Class C3).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal site is within 7m of Midlands Meres & Mosses Phase 2 Ramsar site. Consequently, I have a statutory duty under the Conservation of Habitats and Species Regulations 2017 (as amended) to consider the potential impacts on the European Habitats site.

## Main Issues

3. The main issues are:
  - i) Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and 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 or other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

## Reasons

4. Cranberry Cottage is a substantial detached dwelling in a large plot that includes a tennis court and outbuildings. It is in an area of sparsely developed countryside with sporadic and widely separated individual dwellings, building groups and short ribbons of development. It is in the Green Belt.
5. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

6. Policy S3 of the Newcastle under Lyme Local Plan 2011 Adopted October 2003 (the LP) states that, within the Green Belt, development will be limited to a number of exceptions. These include the well-designed extension, alteration or replacement of an existing dwelling that does not result in disproportionate additions over and above the size of the original dwelling. Furthermore, replacement dwellings must not be materially larger than the dwelling they replace, and replacement rather than alteration should be justified.
7. This is broadly consistent with paragraph 149 of the Framework insofar as the construction of new buildings should be regarded as inappropriate in the Green Belt unless it meets one of the listed exceptions. Of particular relevance to the appeal is paragraph 149 d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
8. The assessment as to whether or not a building is materially larger is primarily an objective one referencing the relative dimensions of the buildings, including floor space, footprint, height, width and volume. It does not take into account design and appearance, surrounding context or the openness of the Green Belt.
9. The parties dispute what constitutes the original building, this being the building as it existed on 1 July 1948 or, if constructed after that date, as it was originally built. Irrespective, the existing building has a volume of 974m<sup>3</sup> and the replacement dwelling volume would be 1632m<sup>3</sup>. The proposal would be an approximately 67% increase in the volume of the existing building. The plans illustrate that while the proposal would have a frontage of similar width to the existing, it would be a much deeper building. It would also be taller with a markedly larger footprint and floor space than the existing dwelling.
10. Consequently, taking into account the significant increase in its volume and external and internal dimensions, the proposed replacement dwelling would be materially larger than the one it would replace. Therefore, it would not meet the exception in paragraph 149 d) of the Framework. It would be inappropriate development in the Green Belt in conflict with LP Policy S3 and the policies in the Framework that protect the Green Belt.

#### *Openness of the Green Belt*

11. Openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual dimensions.
12. The proposal would be a 67% increase in the volume of the existing dwelling and it would have a correspondingly larger spatial footprint of development. This would equate to a small spatial loss of openness.
13. Irrespective that it would be set further back into the site, the replacement dwelling would be a prominent feature and a significant increase in the quantum of built development at this site. Its frontage, including the single storey side extension, would be a similar width to the existing dwelling. However, the 2 storey part would be substantially wider, deeper and taller than the 2 storey part of the existing dwelling. Moreover, while the pitched roof single storey side extension would be subservient to its host, nevertheless it would appear markedly larger and corresponding more visible than the existing lower flat roof side extension.

14. Viewed from the front, the existing dwelling is relatively unremarkable, with a simple pitched roof and front elevation. In contrast, the frontage of the proposal would be much larger with a more complicated design including a large roof slope flanked by large protruding non-matching front gable features. Side elevations would also be longer and taller with numerous first floor window gables, and there would be a conspicuously tall chimney.
15. While the Council has no concerns in relation to the design of the proposal, by virtue of its overly large scale and its design it would be a conspicuous and dominant feature. Case law has established that visually acceptable development is capable of harming openness. In this case, there would be a significant visual impact and, taking into account the increase in the scale and bulk of the building, the proposal would result in a significant harmful loss of openness. The removal of the tennis court fencing and modest outbuildings, neither of which are visually obtrusive, would not mitigate harm to openness.

### **Other Considerations**

16. The wider area includes large modern brick dwellings, but also rendered buildings and more modest single storey, semi-detached and detached dwellings. Taking into account the wide separation of the appeal property from neighbouring dwellings, and the mixed character and appearance of the area, large dwellings elsewhere weigh neither for nor against the scheme.
17. The Council considers that the proposal would be more compact, balanced and aesthetically pleasing than the existing dwelling and that it would enhance the appearance of the site and the part of the Area of Landscape Enhancement within which it sits. This would comply with the aims of the Framework in relation to development being well designed and adding to the overall quality of the area. However, on the basis that the proposal would not be an outstanding or innovative design for the purposes of the Framework, compliance with policy that requires good design carries limited positive weight.
18. The existing dwelling is in need of repair and refurbishment due to, in places, uneven floors and a sagging ceiling, cracking plaster, areas of damp and mould around window frames, dry rot in a dividing wall and a leak in the lounge ceiling. However, in the absence of substantive evidence such as a building or structural survey, it has not been demonstrated that the appeal property is hazardous to health or that it could not be repaired and maintained. I note concerns about the oil central heating, but it has not been demonstrated that energy efficient and environmentally friendly heating solutions could not be installed. There is little evidence that effective smoke detectors could not be fitted. The fact that the dwelling is well sound proofed is not a justification to demolish it. These matters carry little weight in favour of the proposal.
19. The proposal would provide enhanced internal living accommodation with 6 en-suite bedrooms and an internal layout that would better suit the appellants' needs. Nevertheless, the 5 bedroom appeal property already appears suitable to be occupied by a large family. The appellants' preference for a more modern house with a different layout carries negligible weight in favour of the scheme.
20. Alternative schemes comprising extensions and outbuildings could be constructed with the benefit of permitted development (PD) rights or planning permission. The proposed PD scheme would include a rear extension and

outbuildings, collectively resulting in a greater built volume than the proposal. The proposed policy-compliant extension would result in a lesser volume than the proposal. For either of these alternative schemes to constitute a valid fallback position, there must be a real prospect that they might take place.

21. There is a dispute between the parties as to what constitutes the original building. In this regard, the evidence indicates that the existing dwelling comprises a collection of earlier detached buildings, including a smaller original dwelling, that were later linked by infill development including new walls and new sections of roof to match. However, the historic plans, maps and aerial photographs are not geo-referenced for the purposes of comparison. I cannot be certain that the driveway illustrated on the site plan drawing (permission Ref NNR4094) is in the same location as the current highway access for the purposes of establishing the original building. Therefore, the evidence is not unequivocal. In the absence of a lawful development certificate or planning permission for an alternative scheme, I cannot be certain as to the original dwelling or the extent of PD or householder extensions. However, the parties agree that outbuildings could be constructed under PD rights.
22. If either scheme would be a valid fallback position, then it would be appropriate to consider whether they would justify the proposal. In either theoretical fallback, the new built elements would be to the rear of the dwelling, set back from the road and screened from views by the existing built form and mature boundary planting including hedgerows and trees. Rear extensions would not result in the same bulk or massing as the proposal and they would not be visually obtrusive. A smaller householder or PD extension alone would not therefore justify the proposal. The PD garden building would have a large footprint, but it would be a relatively low building partly screened by the dwelling and landscape planting. On the basis of the evidence before me and taking into account the differences in terms of scale, size, design, siting and layout, I find that the PD scheme, albeit larger volume, would not be significantly more harmful than the appeal proposal.
23. The garden building would include gym, cinema, and games/ entertainment rooms. While the appellants state they would rather have these in the house, the proposal does not include any such leisure rooms. Therefore, they may seek to exercise existing PD rights for outbuildings even if the appeal should succeed. While the size of the plot could accommodate the appeal scheme and large outbuildings, PD buildings would further compound the harm to the Green Belt. Drawing all this together, the fallback positions do not provide a justification for the appeal and they carry limited weight in its favour.
24. The adjacent Ramsar site and Site of Special Scientific Interest (SSSI) is not designated for its landscape or visual qualities. As such, neither the design of the proposal nor its siting would be a benefit to the designated site. It has not been demonstrated that the proposal would result in any improvement in the condition of the designated site. This is a neutral factor.

### *Green Belt Balance*

25. I have found that the proposal would be inappropriate development in the Green Belt. It would result in a harmful loss of openness of the Green Belt. The Framework advises that substantial weight must be given to any harm to the Green Belt.

26. There are no other considerations, including the design of the proposal, that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness. Consequently, the very special circumstances necessary to justify the proposal do not exist.

### **Midland Meres & Mosses Ramsar Site**

27. Midlands Meres & Mosses Phase 2 Ramsar site and Black Firs and Cranberry Bog SSSI are designated for open water and peatland habitats and they support nationally important flora and fauna. The Ramsar site is currently in unfavourable condition as a result of eutrophication from agricultural and domestic sources.
28. In determining the application, the Council was satisfied that the proposal would not harm the European site and that a Construction Environment Management Plan (CEMP) and drainage details could be secured by planning condition. However, having reviewed the proposal including the Ramsar and SSSI assessment, Natural England advises that there is insufficient information to screen out Likely Significant Effects on the Ramsar site. Further information would be necessary to inform a Habitats Regulations Assessment, including details of foul and surface water drainage and a CEMP. However, although I have a statutory duty in this regard, I have concluded that there are no very special circumstances to justify the proposal in the Green Belt. Therefore, it is not necessary for me to further consider the impacts on the designated site.

### **Conclusion**

29. For the reasons set out above, the appeal should therefore be dismissed.

*Sarah Manchester*

INSPECTOR