



Appeal Decision

Site visit made on 4 April 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2023

Appeal Ref: APP/R0660/D/22/3313910

The Lodge, Hall Lane, Mobberley, Knutsford WA16 7AQ

- 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 Dianne Lynn against the decision of Cheshire East Council.
 - The application Ref 22/2003M, dated 26 May 2022, was refused by notice dated 10 October 2022.
 - The development proposed is a new access from the highway and trees removed.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice refers to saved policies of the Macclesfield Borough Local Plan (MBLP). The Site Allocations and Development Policies Document (SADPD) is the second part of the Cheshire East Local Plan (CELP) and was adopted on 14 December 2022. The policies in the SADPD supersede those within the MBLP. The Council and the appellant have referred to the revised policies in their evidence. That said, I have not been provided with details of the policies set out in the SADPD or made aware of their relevance to this case. Therefore, I am satisfied that no party has been prejudiced by my consideration of the appeal proposal against the policies set out in the CELP.

Main Issues

3. The main issues in this case are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on designated heritage assets;
 - the effect of the proposal on existing trees; and
 - if the proposal is inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

4. The National Planning Policy Framework (the Framework) makes clear at paragraph 150 that certain forms of development, including engineering operations, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Section 336 of the Town and Country Planning Act 1990 states that “engineering operations” includes the formation or laying out of means of access to highways.
5. Policy PG3 of the Cheshire East Local Plan – Local Plan Strategy 2010 – 2030 (adopted July 2017) is consistent with the Framework.
6. In light of the above, I find that the creation of a new access from the highway potentially falls within the exception set out in paragraph 150 b). That said, I am required to assess the impact of the development on openness and the purpose of including the land in the Green Belt before I can conclude whether or not it would comprise inappropriate development.

Openness

7. As advised in the Framework, openness is an essential characteristic of the Green Belt. It can be taken as the absence of buildings and development and is not just a visual consideration. The proposal would utilise land that lies to the side of the dwelling. The part of the site affected by the proposal is currently free from any form of development and is covered largely in vegetation, with a low hedge along the boundary with the road. The proposal would introduce development and vehicular activity onto part of the site that is currently devoid of development and as a result would have an impact on openness, albeit limited.
8. Whilst the existing roadside hedge and other trees and shrubs located within the appeal site would limit views of the parking and turning area, a lack of visibility does not in itself mean that there would be no loss of openness.
9. The area of land to be used for the proposal is not extensive and would fall within the curtilage of an existing dwelling. As such, it would not conflict with the purposes of the Green Belt as set out in paragraph 138 of the Framework.
10. Whilst I find that there would be no conflict with the purposes of the Green Belt there would be a degree of harm arising from the loss of openness. Consequently, the proposal would be inappropriate development, which according to paragraph 147 of the Framework is, by definition, harmful to the Green Belt. It would also be contrary to the development plan policy summarised above.

Heritage assets

11. I have considered my duties with regards to the setting of Barclay Hall, a Grade II listed building located a short distance to the north of the appeal site, and the Mobberley Conservation Area (CA)¹.

¹ Sections 66(1) and 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

Listed Building

12. Barclay Hall is a Grade II Listed Building originating from 1848. It is constructed of Ashlar and has a symmetrical front elevation with central square porch with gothic arch and an angled bay to first floor. Mullioned square bay windows sit either side of the main entrance. Its significance derives primarily from its historical and architectural interest. A number of developments have occurred, in the vicinity of the hall, which indicates that its setting has changed over time.
13. On my site visit I noted that the hall sat at the top of a long drive and was partially obscured by the trees that bordered it. Views were further restricted by recent developments associated with the care home located to the southwest of the hall. As a result, the proposal would not be appreciated in any visual experience of the setting of that building.
14. However, the setting of a listed building can include land which has a functional or historic relationship with the building. Therefore, whilst the lodge may be in separate ownership, and no longer function as gate house to the hall, it retains its historic relationship. More particularly it marks the point of access to the hall. The introduction of an independent vehicular access from Hall Road would sever this relationship and would diminish the gatehouse role of the property. As a result, the proposal would cause harm to the setting of the listed building. This harm would be less than substantial.

Conservation Area

15. Paragraph 206 of the Framework states that proposals that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset should be treated favourably. The Glossary to the Framework defines the setting of a heritage asset as the surroundings in which it is experienced.
16. Mobberley is a rural village some two miles to the east of Knutsford on the main road of between Wilmslow and Alderley Edge. The settlement has Anglo Saxon origins and is notable for the survival of many of the buildings from the 17th and late 18th century. It has a strong rural character, which arises from low-density development in which open fields are apparent, with buildings often hidden by trees.
17. Hall Lane forms the southern boundary of Mobberley Old and New Hall Estates and benefits from Victorian perimeter planting of trees, many of which are mature. Although the properties on the south side of Hall Lane are less distinguished, they are low density and retain a large amount of tree cover.
18. The proposal affects the Hall Lane frontage and would involve the removal of a number of trees that lie to the east of the lodge. Whilst the trees shown to be removed may not be individually significant, they combine to provide an important contribution to the verdant character of the area. Moreover, they provide a positive contribution to the setting of the lodge.
19. In light of the above I find that the significance of the CA in terms of its setting would be harmed by the proposal.

Conclusions on heritage assets

20. These considerations taken together lead me to the conclusion that the proposal would cause less than substantial harm to the setting of Barclay Hall and the CA. For these reasons, the proposal would conflict with Policies SE1, SED and SE7 of the CELP which seek, amongst other matters, to conserve and enhance the character, appearance and setting of heritage assets.

Trees

21. The submitted arboricultural implications assessment includes a survey of all of the trees within the vicinity of the proposal and provides details of the condition and canopy spread of each of the trees that would be affected. Whilst there is agreement between the main parties that the Ash T1 and Beech T8 are not worthy of formal protection the Council are of the view that the remaining woodland, which includes several trees identified for removal, would be worthy of formal protection.
22. Given the juxtaposition of the Horse Chestnut trees, T4 and T7 with the proposed drive it is readily apparent that their root protection areas would be affected by the proposal. The appellant indicates that 8.20% and 8.60% of the RPA of T4 and T7 would be affected by new permanent hard surfacing. This falls below the 20% limit allowable under BS 5837:2012. That said, given changes in ground levels between the roadside boundary and the lodge it is likely that the topography of the site would require further alterations which could result in additional impacts on the root system of the trees.
23. Furthermore, there is a high probability that the works required to construct the drive would necessitate the use of some mechanical equipment to excavate the ground. As such the likelihood of root damage occurring would be high. The ability of the tree to tolerate damage to the rooting area is already likely to be limited by the age of the trees.
24. I have taken into account the potential to provide additional planting to replace the vegetation removed. Subject to agreement on a satisfactory scheme such planting could, with time, replace the mature landscaping that currently exists.
25. I conclude, on this main issue, that in the absence of full details of the existing and proposed levels it is likely that the proposal would cause harm to the existing trees that are shown to be retained. Furthermore, there is no certainty that a scheme for replacement planting would contribute positively to the character and appearance to the same degree as that which currently exists. Consequently, the proposal would conflict with Policy SE5 of the CELP, which seeks to retain trees, hedgerows and woodlands that make a significant contribution to the amenity, biodiversity, landscape character and historic character of the surrounding area.

Other Considerations

26. The appellant asserts that the property requires improvements to the existing parking arrangements for it to function more effectively as an independent residential dwelling. Moreover, they are of the view that the proposal would enhance the heritage asset and improve the amenity for occupiers who will go on to maintain the building and contribute to its preservation. Whilst I accept that the provision of a separate vehicular access onto Hall Lane would make the lodge appear a more independent entity, which would satisfy the

aspirations of the occupiers, I do not consider that the proposal before me is the only way that could be achieved. Moreover, from my site visit it was readily apparent that the existing vehicular access to the side of the lodge enables good access to the appeal site and provides an opportunity to secure a viable use of the property as a residential unit in a substantial plot.

27. The appellant has referred me to the development that has been undertaken at the Old Bakery Cottage. Whilst there are some similarities with the appeal proposal, in terms of the form of development being applied for, the context in which it is located is not the same. Furthermore, in the absence of full details of that development, I am not in a position to evaluate whether the circumstances that led to an approval on that occasion, including the policy context in which the decision was made, are the same as those which now prevail. Consequently, I give this matter only limited weight.

Conclusions

28. Paragraph 147 of the Framework sets out the general presumption against inappropriate development in the Green Belt. It states that such development 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, is clearly outweighed by other considerations.
29. I have concluded that there is a degree of harm arising from the loss of openness, and consequently the proposal represents inappropriate development within the Green Belt. This would be, by definition, harmful to the Green Belt. As the Framework requires that substantial weight is given to any harm to the Green Belt, I afford the harm that is caused by this significant weight.
30. I have also concluded that the proposal would result in harm to the setting of heritage assets, and result in the removal of several trees that contribute to the character and appearance of the area. Furthermore, it is likely that retained trees could also be adversely affected by the proposed development. I give these matters limited weight.
31. I consider that the benefits cited in the scheme's favour do not clearly outweigh the harm it would cause. Consequently, very special circumstances do not exist, and the proposal is contrary to the policies in the CELP outlined above and the Framework.
32. I therefore conclude that the appeal should be dismissed.

John Gunn

INSPECTOR