



Appeal Decision

Site visit made on 3 October 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Appeal Ref: APP/R0660/W/22/3312573

Maple Farm, 48 Strawberry Lane, Wilmslow SK9 6AH

- 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 David Ellerby against the decision of Cheshire East Council.
 - The application Ref 22/0172M, dated 17 January 2022, was refused by notice dated 19 October 2022.
 - The development proposed is proposed double garage and boot room.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Cheshire East Local Plan Site Allocations and Development Policies Document (SADPD) was adopted in December 2022 after the Council made its decision. Policies within the SADPD have replaced all saved policies contained within the Macclesfield Borough Local Plan 2004 (MBLP), including Policies GC12 and DC2 referred to in the decision notice. Both parties have provided copies of policies which they consider are pertinent to the appeal from the SADPD. I have taken those policies into account in determining this appeal.
3. In their submissions, the Council has commented on the lawful use of the site. Whether or not the site is in fact in lawful use as an independent residential unit, is not a matter for this appeal. The application and this appeal relate to the development applied for, and other mechanisms exist to confirm or regularise the use of 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 policy;
 - The effect of the proposal on the character and appearance of the area and host building; and,
 - Whether any harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development in the Green Belt

5. The appeal site is located in the Green Belt, on the fringe of the built-up area of Wilmslow. It comprises a former stable block which is now occupied as a dwelling, previously known as The Stables and now known as Maple Farm (the appeal property), together with an area of hardstanding surrounding the building. The appeal site shares an access with other land owned by the appellant to the east which, from observations at my site visit, includes a small orchard and pond, a green metal clad barn with timber log store, an outdoor plant area and an open fronted corrugated sheet storage building housing various domestic and other items. The wider area includes residential development to the east, stables and land used for grazing to the south and open fields and woodland to the north and west.
6. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt. It goes on to set out a number of exceptions, two of which the appellant has drawn to my attention, paragraphs 149c) and g).
7. Paragraph 149c) allows for the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the original building, defined in the Framework as the building as it was on 1 July 1948. Paragraph 149g) allows for the limited infilling or partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. Policy PG3 of the Cheshire East Local Plan Strategy 2017 (CELPS) reflects the approach of paragraph 149 to the extent that it is relevant to this appeal. I consider each exception in turn.

The extension or alteration of a building (exception 149c)

8. The Framework does not define circumstances in which domestic outbuildings can be considered as extensions to a dwelling. Policy RUR11 of the SADPD sets out that the construction of ancillary outbuildings or structures within their curtilages to be extensions to existing buildings. Furthermore, the courts have held that paragraph 149c) is not to be interpreted as being confined to physically attached structures, and that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension. The ancillary use of the proposed building and its proximity to the appeal property leads me to conclude the proposal is an extension.
9. What constitutes a disproportionate addition is not defined in the Framework, but local interpretation is provided in Policy RUR11. That policy says that proposals which increase the size of the original building by more than 30% will usually be considered to be disproportionate additions unless the proposal is considered to meet one of 4 listed exceptions. One exception the appellant considers relevant to this appeal is iv) where the proposal is for a small-scale domestic outbuilding in a residential curtilage. The policy makes clear that, in making an assessment of whether an extension is disproportionate, full account will be taken of any previous extensions to the building.
10. The proposed garage and boot room would be sited on an area of existing hardstanding at the rear of, and close to, the appeal property. Irrespective of

whether the extensions constructed as opposed to those approved are taken into account, when the size of the proposed development is included, the increase in the size of the appeal property would be over the guideline figure of 30%. This is not disputed by the appellant.

11. However, disproportionate additions are not solely based upon a mathematical calculation of volume. SADPD Policy RUR11 explains that matters including height, bulk, form, siting and design will also be taken into account in assessing whether an extension would be disproportionate. It is therefore a matter of planning judgement on the basis of the scheme and its context.
12. In this respect, the footprint of the proposed outbuilding would be similar to the footprint of the original stable building before being converted and at 10m, would be of significant width. Although the eaves height would be low, the pitched roof would mean that the overall height of the proposed outbuilding would be only just over 1m below the ridge of the appeal property. There is no definition of small scale within Policy RUR11, however, due to the width and height of the proposal, given the scale of the original appeal property, and even including the subsequent additions, it would not be small scale.
13. My attention has been drawn by the appellant to the extensive planning history to the appeal site, adjoining land and buildings, particularly the most recent permission for conversion, extensions and alteration of the stable building to a dwelling¹. From the evidence presented, this permission removed several permitted development rights under the GPDO². Nevertheless, even if the proposed development would ordinarily meet the limitations of Class E of the GPDO³ and having regard to guidance within paragraph 54 of the Framework, in controlling disproportionate additions, Green Belt policy seeks to avoid properties becoming increasingly larger through incremental extensions, and the associated increase in built form in the Green Belt.
14. In this particular case, given the size of the proposal when considered in the context of the already extended property, the proposal would represent a significant increase in the footprint and scale of the original building such that it would amount to a disproportionate addition.
15. For the above reasons, I find the proposal would not meet the exception criteria in paragraph 149 c) of the Framework.

Limited infilling or redevelopment of PDL which does not have a greater impact on openness (exception 149g)

16. The appellant has provided sworn evidence by way of Statutory Declarations⁴ dated 25 May 2023 to demonstrate that the appeal site forms part of PDL. These state that the appellant has owned the appeal site and surrounding land since 1974 and that it was previously used as a depot by a demolition contractor and included large areas of hardstanding. The appellant also states he planted woodland and hedges, kept chickens, grew vegetables, took hay from the land and rented stables. More recently, several buildings on the land

¹ LPA Ref: 20/0856M

² Classes A to E, Part 1 and Class A, Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

³ Class E, Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

⁴ Under the Statutory Declarations Act 1835.

have been converted to separate dwellings with associated gardens. Some land previously 'stoned up' has been reinstated with vegetation.

17. PDL can include residential gardens where they are not in built-up areas⁵. Although the appellant suggests that, in one part of their appeal statement, as the site is contiguous with the built-up area of Wilmslow, it is part of the built-up area, it is also claimed in the same appeal statement, that the appeal site is not located in the built-up area. Regardless, I am satisfied that the appeal site is located, albeit on the fringe of a built-up area, in a semi-rural area in the Green Belt. The proposal does not fall within any other exclusion set out in the definition of PDL in the Framework.
18. Even if the appeal site is considered to be PDL, the determining factor in assessing the scheme in relation to this exception is the effect of the proposal on openness. The Framework indicates that openness is an essential characteristic of the Green Belt and has a spatial as well as a visual dimension and consideration should be given to the impact or harm wrought by the change to the greenbelt rather than merely to the site itself, a principle established in *Euro Garages Ltd v SSCLG & Anor* [2018] EWCH 1753 (admin) and with which I have had regard to.
19. The proposed outbuilding would not be clearly visible from outside the site once the approved agricultural barn to the north has been constructed⁶. However, even though I observed at my site visit that hardstanding had been laid in the location of the proposed barn, I cannot be certain that the barn would be constructed. Currently, the site is open to the north and glimpsed views toward the site could be obtained, albeit those views would be limited by trees and vegetation along the surrounding field boundaries. I recognise that the appeal property is largely hidden from views from Strawberry Lane by the mature hedgerow and gates on the site frontage. Furthermore, the proposed development would be substantially screened by the appeal property itself, a large barn to the east and woodland to the west.
20. Regardless of its public visibility, the proposal would, due to its large footprint and height, add built development into the currently undeveloped part of the site, reducing Green Belt openness in spatial terms. The increased spread and volume of built form at ground level would introduce a substantial building where currently there is none and would diminish the sense of openness. The loss of openness would be mitigated by the limited degree of public visibility. Nevertheless, there would be a moderate level of harm to openness in spatial terms.
21. Consequently, the proposal would have a greater impact on the openness of the Green Belt and the purpose of including land within it, than the existing situation. Even accounting for the presence of existing surrounding buildings, this would not justify the harm identified to the Green Belt. The exception set out at paragraph 149g) of the Framework would not be met.

Conclusion on inappropriate development

22. The proposal would fail to meet any of the exceptions set out by paragraph 149 of the Framework and would be inappropriate development, which is, by

⁵ As directed in the *Dartford Borough Council v The Secretary of State for Communities and Local Government* and *Ors* [2017] EWCA Civ 141 judgement.

⁶ LPA Ref: 20/3247M

definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Character and appearance

23. Policies SE1 and SD2 of the CELP seek, amongst other things, that development proposals make a positive contribution to their surroundings, deliver high quality design and reinforce local character and identity. This is reiterated in Policy H2 of the Wilmslow Neighbourhood Plan 2019 (WNP).
24. As noted above, the proposal would be largely screened by existing buildings and vegetation surrounding the site and, although within the Green Belt, lies on the fringe of a built-up area in a semi-rural predominantly wooded location. The proposed building would be clad in timber boarding which would complement the appeal property and harmonise with the semi-rural character of the locality.
25. Notwithstanding the above, the footprint and height of the proposal would not be small scale in the context of the size of the appeal property. It would be similar in scale to the original stable building. Due to its size, the proposal would visually compete with the appeal property as the principal building on the site and would not be a subservient addition.
26. Although the physical presence of the proposal in the wider context of the surrounding area would be mitigated by surrounding buildings and vegetation and thus any harm to the character and appearance of the surrounding area would be limited, due to its scale the proposed building would be an incongruous and overly dominant extension to the host property.
27. Consequently, the proposed development would harm the prevailing character and appearance of the host building. The proposal would conflict with Policies SE1 and SD2 of the CELP and Policy H2 of the WNP which seeks the aims I have already set out above.

Other considerations

28. There are several other considerations that have the potential to weigh for or against the appeal scheme thereby having an influence on the assessment of whether or not the weight of the other considerations clearly outweighs the totality of the harm and in turn whether very special circumstances exist in this case.
29. The proposal may be no larger than functionally required by the appellant, however the desire to have a secure garage and boot room are private benefits. Although an area to change and shower after working on an agricultural unit would be reasonable, it has not been demonstrated that this proposal is the only means by which this can be achieved. This matter therefore carries very limited weight.
30. The proposed materials that would be used in the construction of the building would complement the appeal building and the area. Nevertheless, the development would be permanent in nature and good design is expected from any new development. I afford this matter neutral weight.

31. That there would be no harmful effects on highway safety or the living conditions of neighbouring occupiers are neutral impacts and do not weigh in favour of the scheme.
32. The appellant has drawn my attention to detached garages recently granted permission at two neighbouring properties⁷. The Council's officer reports have been provided for both these cases and I note that the decisions were taken prior to the adoption of the SADPD. Furthermore, the garages in these cases were considered not to be disproportionate additions. I saw at my site visit, that Buttercup Barn and The Atrium were larger host dwellings than the appeal property. Therefore, proportionately larger extensions are likely to be considered not disproportionate.
33. My attention has been drawn to appeal decisions where development has been allowed in the Green Belt⁸. Limited details of the circumstances of these appeals have been provided. However, I note that the Plumley case was assessed on a policy in the MBLP with regards to disproportionate additions. While the Council referred to this policy in their decision on this appeal, this policy is now out of date and has been superseded by Policy RUR11 of the SADPD. The 'By The Bridle' case was determined prior to the Framework, the CELPS and the SADPD. As noted above, I have had regard to the Euro Garages Ltd⁹ case in the Adlington appeal, although this appeal relates to a golf development and is not directly comparable to the appeal before me.
34. Moreover, the existence of development elsewhere, whether it be adjacent to the appeal site or elsewhere, does not represent an appropriate reason to find in favour of a proposal that would cause harm in this case, a case I have considered on its own merits.
35. The proposal has been amended and reduced in size since the refusal of a previous iteration¹⁰. I have also had regard to the appellant's attempts to remove previous demolition debris from the wider site and to the extensive woodland planting on land owned and managed by the appellant. Nevertheless, these matters do not justify the proposal now before me, with which I have found harm for the reasons I have given above.
36. I have taken into consideration the Human Rights Act, 1998 which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. I recognise that dismissal of the appeal would interfere with the occupier's rights under Article 8 and the appellant's rights under Article 8 and Article 1 of the First Protocol. However, given the harm identified, the action is in accordance with the law and pursues a legitimate aim of regulating land use in the public interest, and is necessary and proportionate to the situation.
37. A concern has been raised by the Council and other interested parties that the cumulative pattern and proliferation of buildings on land within the applicant's ownership would have a harmful effect on the openness of the Green Belt. However, other than providing a visual context in relation to the proposal, I have assessed the appeal on the basis of the proposed building within the red edged appeal site only and found harm for the reasons I have given above.

⁷ LPA Refs: 17/0910M and 19/0713M

⁸ APP/R0660/D/21/3277062, APP/R0660/W/22/3302555 and APP/C0630/A/08/2075415

⁹ Euro Garages Ltd v SSCLG & Anor [2018] EWCH 1753 (admin)

¹⁰ LPA Ref: 21/3966M

38. I have considered all other matters raised by interested people, including, but not limited to electric vehicle charging points and the location of the site within the Lindow Moss Historic Landscape. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.

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

39. I have identified that the development is inappropriate development in the Green Belt as defined by the Framework. I have also found a moderate reduction of spatial openness which harms the Green Belt. In accordance with the Framework, I afford this Green Belt harm substantial weight. Having carefully examined the other considerations advanced in support of the appeal, I find, on the evidence provided in this case, that they do not clearly outweigh the harm I have identified.

40. Consequently, the very special circumstances necessary to justify the proposal do not exist, thus the proposal would fail to accord with the Green Belt aims set out in Policy PG3 of the CELP, Policy RUR11 of the SADPD and the Framework.

Conclusion

41. The proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it. Therefore, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A Veevers

INSPECTOR