



Appeal Decision

Site visit made on 7 November 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2023

Appeal Ref: APP/R0660/W/23/3316229

Land adjacent to Bourne House, Withinlee Road, Mottram St. Andrew, Macclesfield SK10 4AU

- 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 Ms Jemma Kenwright against the decision of Cheshire East Council.
 - The application Ref 21/4761M, dated 7 September 2021, was refused by notice dated 31 October 2022.
 - The development proposed is the construction of an infill dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of an infill dwelling at Land adjacent to Bourne House, Withinlee Road, Mottram St. Andrew, Macclesfield SK10 4AU in accordance with the terms of the application, Ref 21/4761M, dated 7 September 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The decision notice made reference to policies from the saved Macclesfield Borough Local Plan and the draft Site Allocations and Development Policies Document. The Council subsequently adopted the Site Allocations and Development Policies Document (SAD Policies Document), and this has superseded Policy GC1 of the saved Macclesfield Borough Local Plan.

Main Issues

3. I consider the main issues are:
 - whether the proposal is inappropriate development in the Green Belt; 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

Inappropriateness

4. The National Planning Policy Framework (the Framework) at paragraph 149 states that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. The appellant has set out that the development can be considered under

the exception at paragraph 149 e) relating to limited infilling in villages. Policy PG 3 of the Cheshire East Local Plan Strategy 2010—2030 (Local Plan) also references limited infilling in villages and is broadly consistent with the Framework in this regard.

5. The Council reference Policy PG 10 of the SAD Policies Document, which provides a list of settlements defined as 'infill villages'. This policy is relevant only to those settlements in the 'other settlements and rural areas' tier of the settlement hierarchy. The settlement of Prestbury is not however within this tier of the settlement hierarchy, and this policy is thus not relevant to the appeal proposal.
6. The Framework does not provide a definition of a 'village' and case law has established that it is a matter of planning judgement for the decision-maker, on defining the extent of a village having regard to the facts on the ground.
7. The appeal site is located outside the settlement boundary of Prestbury, but this is not necessarily determinative on whether a site is in a village for the purposes of paragraph 149 e) of the Framework and the relevant exception in Local Plan Policy PG 3. There are properties on both sides of Withinlee Road in the vicinity of the site, along which runs the Prestbury settlement boundary line. The appeal site is seen in the context of this built form where there is no clear distinction between development on the two sides of the road. As such, I consider the appeal site, which is surrounded by development on all sides, forms part of the main built-up area of Prestbury and is within the village.
8. The glossary to the Local Plan provides a definition of infill development as being "*the development of a relatively small gap between existing buildings*". The main parties have provided details of plot widths along Withinlee Road including average plot widths both including the neighbouring dwelling Greenmeadows, and without it. Although there is some variance in plot widths and the spacing between buildings along Withinlee Road, the gap between the existing buildings at Bourne House and Greenmeadows is, at over 100m, significant, and it does not read as a small gap between buildings.
9. There are also buildings to the north and south of the appeal site. The Council consider this gap to be too large to accommodate limited infill development. However, the distance from the front of the proposed dwelling to the building on the other side of Withinlee Road would be comparable to, or less than other dwellings that face each other across this road. To the rear, the proposed dwelling would be around 41m from the main building on Greenmeadows Farm. The Council has referred to an average plot width of 32m, but this relates to the east-west plot width along Withinlee Road and not the north-south axis, where the appeal site would have a similar plot depth from the road to the rear site boundary as other properties in the vicinity of the appeal site. Accordingly, I consider the site would infill a relatively small gap between existing buildings.
10. I conclude that the proposal would not be inappropriate development in the Green Belt. It would not therefore be contrary to Policy PG 3 of the Local Plan or with Paragraph 149 of the Framework, which set out that limited infilling within a village is not inappropriate development.
11. With respect to openness, given my findings that the proposal is not inappropriate development, it would, by definition, not have an adverse impact on the openness of the Green Belt.

Other Matters

12. My attention has been drawn to several appeal decisions. Although there are some similarities between those cases and the appeal development, each appeal should be considered on its own merits and specific circumstances. I can confirm that I have determined this appeal accordingly on its own particular merits.
13. Concerns have been raised in relation to the accessibility of the site, and more specifically, the lack of a pedestrian footpath along much of Castle Hill. Future occupants may therefore be reliant on private vehicle for day-to-day trips. The appeal proposal is however situated opposite the settlement boundary for Prestbury and around other properties that are a similar distance from the centre of Prestbury. As such and given the appeal proposal is for a single dwelling, I do not consider that the development would be unacceptable in this regard.
14. The appellant has submitted a Section 106 agreement securing Biodiversity Net Gain contribution. This obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Conditions

15. I have considered the conditions suggested by the Council and consultees, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended those suggested as appropriate.
16. I have attached materials and landscaping conditions in the interests of ensuring the development's acceptable appearance in order to safeguard the area's character and appearance.
17. Conditions are also necessary to protect trees and in relation to drainage matters, to address drainage and risks from flooding, including the provision of ground and floor level details. Conditions are also necessary in relation to contamination to address such risks. It is essential for a number of these to be pre-commencement conditions to ensure there is no adverse impact on trees, for the reason of flood prevention, and to prevent against pollution or harm to health.
18. For highway safety reasons, I have imposed conditions relating to the site access, and in the interests of protected species, conditions are necessary for the development to enter a licensing scheme and for there to be no vegetation removal or demolition at certain times of the year for the protection of habitats.
19. A condition relating to side facing windows being obscured and non-opening below 1.7m is required to prevent harm to living conditions, as is a condition restricting the usage of the flat roof area of the proposal dwelling for the same reason.

Conclusion

20. I conclude, for the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, that the appeal should be allowed.

F Rafiq

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall commence within three years of the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Dwg No: 21072 (PL) 001 B), Proposed Site Plan (Dwg No: 21072 (PL) 020 H), Proposed Floor Plan (Dwg No: 21072 (PL) 110 B) and Proposed Elevations (Dwg No: 21072 (PL) 200 B).
- 3) No development above ground level shall take place until samples of all external facing and roofing materials have been submitted to and approved by the local planning authority in writing. Development shall be carried out in accordance with the approved details.
- 4) Prior to occupation of the dwellinghouse hereby approved, a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
- 5) The approved landscaping scheme shall be completed in accordance with the following:
 - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority in writing.
 - b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
 - c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations).
 - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
- 6) (a) No development or other operations shall take place except in complete accordance with the tree protection and construction measures identified in the Arboricultural Impact Assessment and Arboricultural Method Statement (WRMSA/MS/01 Rev. I dated 1/9/2022 and Method

Statement Plan within the AMS (WRMSA/MS/01 Rev. I dated 1/9/2022 with measures to be implemented under Arboricultural supervision in accordance with BS 5837:2012 Trees in relation to design, demolition and construction. – Recommendations.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

- 7) No development shall take place or other operations undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed service and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority (notwithstanding any additional approvals which may be required under any other Legislation). Such layout shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.
- 8) No development shall take place until details of an Engineer designed no dig hard surface construction specification for any area of hard surfacing within the root protection area of retained trees has been submitted to and approved in writing by the Local Planning Authority. These details shall also include the proposed details of the materials for the final wearing surface. The development shall be implemented in accordance with the approved details.
- 9) The site access visibility splays should be provided in accordance with the details illustrated in drawing number J000326-VISI104 revision A, any foliage or other obstruction falling within the visibility splays should be cut back/re-planted/positioned behind the visibility splays or maintained at/not exceed 1.0m in height relative to the level of the site access.
- 10) The approved site access (including provision of visibility splays) must be constructed in accordance with the approved plans prior other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving).
- 11) Prior to occupation of the dwellinghouse hereby approved, the proposed development shall enter Natural England's District level Licencing Scheme for Great Crested Newts.

- 12) No removal of any vegetation or the demolition or conversion 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 converted 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 take place.
- 13) No development shall take place until a detailed drainage strategy / design, associated management / maintenance plan for the site has been submitted to and approved in writing by the Local Planning Authority. The drainage design must also include information regarding surface water run-off rates, designs storm period and intensity & any temporary storage facilities included, to ensure adequate drainage is implemented on site. Any tests or investigations taken out during this stage must be in accordance with relevant guidelines. The development shall be implemented in full in accordance with the approved details prior to the first occupation of the development hereby permitted and retained thereafter.
- 14) No development shall take place until the ground levels and finished floor levels (FFLs) have been submitted to and approved in writing by the Local Planning Authority. If the levels need to be raised due to surface water flooding 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. The development shall be implemented in full in accordance with the approved details prior to the first occupation of the development hereby permitted and retained thereafter.
- 15) No development shall take place (other than the approved site access) until:
 - (a) A Phase I Preliminary Risk Assessment has been submitted to, and approved in writing by, the Local Planning Authority (LPA) and if required:
 - (b) A post demolition Phase II ground investigation and risk assessment has been completed. A Phase II report shall be submitted to, and approved in writing by, the LPA and:
 - (c) If Phase II ground investigations indicate that remediation is necessary, a Remediation Strategy shall be submitted to, and approved in writing, by the LPA.The remedial scheme shall be carried out in accordance with the approved Remediation Strategy.
- 16) No part of the development hereby approved shall be first occupied prior to submission and approval in writing of a Verification Report prepared in accordance with the approved Remediation Strategy that covers that part of the development to be occupied.
- 17) (a) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site.

- (b) Prior to occupation, evidence and verification information of soil or soil forming materials being brought to site (for example, laboratory certificates) shall be submitted to, and approved in writing by, the LPA.
- 18) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority in writing as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme also agreed in writing by the Local Planning Authority.
- 19) The first-floor windows in the west (side) elevation of the approved development shall be glazed using obscured glass to a minimum of Pilkington level 3 (or equivalent) scale of obscuration. The windows shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the finished floor of the room in which the window is installed. Any subsequent re-glazing shall achieve the same level of obscurity.
- 20) The flat roof area of the single-storey rear projection on the dwellinghouse hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

End