



Appeal Decision

Site visit made on 17 April 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/J3720/W/23/3329578

The Coppice, Park Lane, Great Alne, Warwickshire B49 6HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms and Mr H and D Pierson and Reindorp against the decision of Stratford-on-Avon District Council.
 - The application Ref is 23/00703/FUL.
 - The development proposed is a replacement dwelling..
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are
 - a) whether the proposal would be inappropriate development in the Green Belt and its effect on openness;
 - b) whether it would preserve the character or appearance of the Great Alne Conservation Area, its effect on the setting of the adjacent Grade II listed buildings opposite, its effect on archaeological remains, and whether it would harm the significance of any of these heritage assets;
 - c) its effect on the character and appearance of the area.

Reasons

Green Belt

3. Mindful that the site is in the Green Belt, Policy CS.10 in the *Stratford-on-Avon District Core Strategy* (the Core Strategy) says inappropriate development will be resisted in such designations. It adds that only certain forms of development will not be inappropriate, which include the replacement of an existing building for the same use as long as the replacement building is not materially larger than the one it replaces. This approach reflects that of the *National Planning Policy Framework* (the Framework). It says that inappropriate development is by definition harmful to the Green Belt, though accepts that the replacement of a building is not inappropriate provided the new building is in the same use and not materially larger than the one it replaces.
4. The Coppice has been extended over the years. As a result, to assess whether the scheme before me is inappropriate, the wording in both the Framework and the Core Strategy means my focus should be on comparing the proposal with the building there now, rather than as it was originally built. I also have had

details about possible extensions under 'permitted development rights', but they do not now form part of the building this proposal would be replacing and so do not affect whether or not the works would be inappropriate.

5. The appellant said the current volume of the house, with its attached garage, is 506.2m³, while the proposal would have a combined total volume of 713.07m³ (649.07m³ for the dwelling, with the garage adding a further 64m³). This would mean the replacement dwelling (with garage) would have a volume that was around 40.8% greater than that of the dwelling it would replace.
6. Arriving at this figure, I recognise that the proposed garage would be detached. However, I have been referred to no paragraph or clause in the Core Strategy or Framework, other than those concerning replacement buildings, that has been presented to show it would not be inappropriate. Moreover, it would be relatively close to the proposed dwelling, and be seen and used in conjunction with it, replacing the existing attached garage. I am therefore satisfied that this garage, although detached, should be taken into account when considering whether the replacement building would be materially larger than the one it replaces.
7. To assist in the assessment of whether or not the works would be inappropriate, the Development Management Considerations under Core Strategy Policy CS.10 say that any replacement building '*should not cause material (ie significant) harm to openness and the character of the Green Belt*'. It then gives a number of general key factors that should be taken into account. Beyond that, no specific calculation was given to allow a comparison between a replacement building and the one it replaced, to establish whether or not it was materially larger. Indeed, the supporting text to this policy expressly states that the figure of 30%, which had been used before the Core Strategy was adopted, was in many senses arbitrary, and so '*a more appropriate means of maintaining openness is to consider proposals on a case-by-case basis, from the starting point that maintaining openness and preventing urban sprawl are of utmost importance*'.
8. The Framework gives no specific guidance either on how to assess what is materially larger. However, despite the comments in the supporting text of the Core Strategy quoted above, this national guidance makes no reference to openness when judging whether a replacement building is inappropriate. Indeed, it is one of the instances in para 154 of the Framework where the effect on openness is not given as something to be explicitly factored into the assessment. This is therefore unlike, for example, the provision of appropriate facilities for outdoor sport (para 154(b)) or limited infilling (para 154(g)), where openness is specifically mentioned as an aspect of the assessment concerning inappropriateness.
9. Consequently, while noting the supporting text to Core Strategy Policy CS.10 but seeking consistency with the Framework, it is a planning judgement as to whether the size of the replacement building is great enough to mean it is materially larger than the building it replaces, and so inappropriate.
10. In my assessment, and in the absence of any basis to the contrary, an increased volume of this amount is sufficient to mean the new building would be materially larger than the one it would replace. As such, I consider this replacement dwelling to be inappropriate development in the Green Belt.

11. In reaching this view I recognise that in 2019 the Council granted planning permission (the 2019 permission) for extensions to the dwelling that would mean it was some 60% larger than the original building and bigger than the scheme before me. Having regard to the relevant wording in the Framework, it would appear the Council found the effect of such enlargements, along with the extensions already built, were not disproportionate when compared to the size of the original building. I understand that as this permission is no longer extant, it cannot now be implemented and so is not a fall-back. Moreover, I have not been told that the District's development plan framework then included any specific figure on the matter. Rather, from the evidence before me the reasoning behind that decision appeared to rest to some degree on the works' subservience and their effect on openness, and as stated above, under the Framework these are not matters to take into account when considering inappropriateness for a replacement dwelling.
12. Although the effect on openness in the Green Belt is not to be considered as part of the assessment of inappropriateness, it is nonetheless a matter to be addressed if a replacement building is found to be inappropriate. The Framework says the fundamental aim of Green Belt policy is '*to prevent urban sprawl by keeping land permanently open*', while the essential characteristics of Green Belts are '*their openness and their permanence*'.
13. This site is on the edge of a village, and is enclosed by trees on 3 sides while a terrace of houses is on the fourth across the lane. I recognise too that as the existing bungalow has a relatively tall pitched roof, this proposal would be appreciably lower. However, openness is not just about height, and has a spatial as well as a visual dimension. Consequently, although the new house would not be widely visible and would not be as tall as the current bungalow, by being materially larger it would to some degree erode the sense of openness experienced here.
14. In the light of the above, even if I had used the approach outlined in Core Strategy CS.10 and its supporting text and considerations, I would still have found the proposal would be inappropriate development.
15. Accordingly I conclude this would constitute inappropriate development in the Green Belt, that would detract from one of the designation's essential characteristics of openness.

Heritage

16. Under section 72 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Moreover, irrespective of the Council's decision-making process, under section 66 of that same Act I am required to have special regard to the desirability of preserving a listed building or its setting.
17. The significance of the Great Alne Conservation Area lies partly in how it is a cluster of various buildings and open spaces that show the organic way in which this rural settlement has developed over the years. This is particularly apparent on Park Lane where I noticed houses of differing styles, sizes and ages arranged in various ways in relation to the carriageway. Moreover, the informality of the lane itself, with its weak kerbs, varied carriageway width and

limited pavements also contributes to the significance of the conservation area by enhancing its rural ambience.

18. On the opposite side of the lane to the appeal site are 2 Grade II listed cottages that date back to the 17th Century. Insofar as this appeal is concerned, their significance appears to be architectural and historical, reflected in the way their external detail, form and arrangement still illustrate their age and origins.
19. Within this context, although the bungalow now on site is relatively modern it is nonetheless tucked away and its design and materials mean it has a muted presence in the street scene. I therefore consider its contribution to the conservation area is neutral. In relation to the listed buildings opposite its effect on their settings similarly does not harm their significance.
20. What is proposed would occupy a roughly comparable position on the site to the existing house and would have a shorter frontage, although the detached nature of the garage would appear to spread development over a longer length of the lane. However, the new house would be of a larger volume and footprint, and it would be of a strongly contemporary design, with its modern materials, its long low flat roof, and the size and nature of its window openings.
21. As with the existing property the proposal would be tucked away to some degree, enclosed by trees on 3 sides. Furthermore, precise details of materials and window treatments could be secured through conditions.
22. The opportunities for contemporary architecture in such an environment are appreciated, and the contribution such architecture can make to the richness of the conservation area is acknowledged. However, although I recognise the variety and diversity of built form in Great Alne, I consider there is still a need to respect the character and distinctiveness of the historic part of this settlement. To my mind though, the nature of the design now before me relates poorly to the existing built form in the village. As a result, taking this with the increased size of the building and its location close to the carriageway edge, it would be an unduly striking and discordant feature when it came into view travelling along the lane. For these reasons I consider it would adversely affect the character and appearance of the conservation area, leading to less than substantial harm to its significance.
23. Furthermore, I do not agree with the appellants that it would sit in harmony with the listed cottages opposite. Rather, its siting on the plot, its scale and its striking design would mean it would also unduly challenge an appreciation of these simple listed buildings a few metres away across the lane, and so by affecting their setting, would cause less than substantial harm to their significance too. West Lodge to the south is also Grade II listed. That though is very much experienced as a gatehouse in its curtilage standing next to the entrance to what used to serve a large grand dwelling. The appeal site is sufficiently distant and concealed to mean the significance of that neighbouring property would not be affected.
24. I have accepted the existing dwelling offers relatively little to the conservation area through its design, and is taller than the proposal with a longer frontage. However, mindful of its subdued and muted presence in the street scene, when compared to the impact of what is before me, it is not as dominant or as

challenging. Rather, as its contribution to the conservation area is neutral, it is less harmful.

25. I was told this is now an area of high sensitivity to archaeological deposits. Moreover, with its bigger footprint and associated terraces the development would involve earth works over a greater area than that covered by the existing dwelling. Although the Council may not have requested such a survey when the application was submitted or when the 2019 permission was considered, that would appear to have been in error given its current stance. I am not persuaded though that the nature of this concern means the matter could not be appropriately addressed by condition. Of itself, it is consequently not a reason for dismissing the scheme.
26. Accordingly I conclude the proposal would fail to preserve the character or appearance of the Great Alne Conservation Area, causing less than substantial harm to its significance. I also find that by reason of its effect on their settings the proposal would cause less than substantial harm to the significance of the 2 Grade II listed cottages opposite.

Character and appearance

27. The strategic objectives of Policy CS.20 in the Core Strategy are to reinforce the character and local distinctiveness of the District, taking into account the intrinsic and special value of its townscapes and landscapes.
28. In this context it says a replacement dwelling should not be significantly larger than the one it replaces amongst other things. Whilst I have found above that the proposal would be '*materially*' larger than the existing dwelling, for the same reasoning I find it would be '*significantly*' larger as well, and so in conflict with this aspect of the policy.
29. Turning to the wider impacts on character and appearance, the enclosed nature of the site and its location on the edge of a settlement mean I consider it would not harm the surrounding landscape. However, its striking and discordant design in the context of local distinctiveness, its prominent position on the plot and its greater size mean I consider it would cause harm to the historic character and appearance of the site's immediate environs on Park Lane.
30. Accordingly I conclude the development would detract unacceptably from the character and appearance of the area, in conflict with Core Strategy Policy CS.20. It would also conflict with Core Strategy Policy CS.9, which seeks high quality development that is sensitive to its setting and enhances its sense of place, and Core Strategy Policy AS.10, which requires replacement dwellings in the countryside and villages not to cause inappropriate harm to the character of the area.

Balance

31. The Framework states that great weight should be given to the conservation of heritage assets, and any harm to their significance should require clear and convincing justification. Moreover, if less than substantial harm is caused to the significance of any such asset, that harm should be weighed against the public benefits. In relation to Green Belts it says inappropriate development should not be approved except in very special circumstances. It confirms that these circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed

by other considerations. Finally, section 38(6) of the *Planning and Compulsory Purchase Act 2004* says development should be in accordance with the development plan unless material considerations indicate otherwise.

32. The appellants have cited the poor living conditions offered by the existing dwelling and the inadequacy of its garage as reasons for its replacement. While this might be so, and while the proposal may be to higher environmental standards than the house there now, these factors do not justify something of the size and impact proposed.
33. I also understand that extensions and outbuildings could be built at the existing dwelling under 'permitted development rights' that would be outside of the Council's control with regard to design and materials. Whilst this might not be confirmed by a Certificate of Lawfulness, that does not affect the appellants' lawful ability to undertake those works. On the other hand, the fact that such rights exist do not mean they will be implemented in full or in part, and I have no reason to consider any such outbuildings or extensions that would be built would not be constructed in a sensitive manner. Furthermore, if such an extension is as shown in blue on drawing 006 it would be mainly to the rear. I am therefore not satisfied that the effect of 'permitted development' extensions would justify the scheme before me or have a greater adverse effect on the streetscape.
34. It has been suggested that such rights could be removed from the proposal. However, the Framework says that planning conditions should not be used to restrict national 'permitted development rights' unless there is clear justification to do so. Mindful that the relevant Order concerning these rights has not taken the opportunity to withdraw them from houses in the Green Belt, on the evidence before me I see little justification, if I had been minded to allow the scheme, to remove them from this property.
35. Whilst I note what I understand to be the Council's reasoning behind the 2019 permission, that too does not justify a departure from what I consider to be the approach outlined in national policy.
36. Accordingly, even if taken together I consider these factors and any others cited, insofar as they are public benefits, do not outweigh the less than substantial harm to the designated heritage assets, and so the scheme conflicts with Core Strategy Policy CS.8, which seeks to protect and enhance the historic environment, and the Framework.
37. Furthermore, and again even if taken together, the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is not clearly outweighed by these other considerations and any others mentioned, and so the scheme is contrary to Core Strategy Policy CS.10 and the Framework.
38. Finally these factors do not amount to material considerations sufficient to justify a decision other than in accordance with the development plan.

Conclusion

39. Accordingly, I conclude that the appeal should be dismissed.

JP Sargent

INSPECTOR