



Appeal Decision

Site visit made on 23 May 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

Appeal Ref: APP/R0660/W/23/3331585

Brow Top, Lees Lane, Wilmslow, Cheshire SK9 2LR

- 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 Mr Thomas Carroll against the decision of Cheshire East Council.
 - The application Ref is 23/2143M.
 - The development proposed is the demolition of one dwelling and the construction of a replacement dwelling with two ancillary outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of one dwelling and the construction of a replacement dwelling with two ancillary outbuildings at Brow Top, Lees Lane, Wilmslow, Cheshire SK9 2LR in accordance with the terms of the application, Ref 23/2143M, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal submission included 4 additional plans. They do not alter that proposed but seek to illustrate the appellant's case. Therefore, I do not consider their inclusion as part of the appeal would be prejudicial to any other parties and have made my decision accordingly.
3. Since the Decision Notice was issued the National Planning Policy Framework (The Framework) has been updated. Consequently the Council's officer report refers to the previous version. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties and so the revised version has been referenced in this decision.

Background and Main Issues

4. It is noted that the decision notice only refers to the proposed dwellinghouse whilst the proposed development also includes 2 outbuildings, a garage and garden building. In the evidence the main parties have referred to the proposed development as the 'replacement dwellinghouse'. Nevertheless, as the outbuildings form part of the proposal and it is evident the main parties are aware of them and have referred to them within other parts of the evidence, I have considered them within this decision.
5. Therefore, the main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;

- the effect it has upon the openness of the Green Belt; and
- if the development is inappropriate whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development

6. The appeal site constitutes a single storey dwelling on a large plot, with accommodation in the roof space. To the front of the site is an area of hardstanding for parking. To the rear is a large garden that slopes away from the dwelling towards a mature hedge which separates the site from the fields beyond. It is located within a row of detached dwellings and is set back from Lees Lane behind a further row of dwellings.
7. Paragraph 154 of the Framework states that the construction of a new building is inappropriate in the Green Belt but also sets out 7 exceptions to this. On review of the evidence and in line with the main parties, I am satisfied that the whole proposal, the replacement dwelling and associated outbuildings, should be considered under paragraph 154 d), the replacement of a building. This exception requires that the new building be in the same use and not materially larger than the one it replaces. The proposal is for a replacement dwelling and therefore this issue turns on whether the proposed building would be materially larger than the existing building.
8. The Framework is echoed in the Cheshire East Local Plan Strategy policy PG3. Whilst Policy RUR13 of the Site Allocations and Development Policies Document deals with replacement buildings outside of the settlement boundaries including those in Green Belt. Policy RUR13, amongst other things, refers to an overall increase in building height, and extension beyond the existing building footprint as having the potential to be considered materially larger.
9. The main parties have set out various mathematical comparisons between the existing building and the proposed dwelling, however it is not clear whether these figures take account of the proposed 2 outbuildings which also form part of the proposal. Nevertheless, I am satisfied that the proposal would constitute an increase in floorspace and increase the overall height of development on the site by 3.12m, according to the Council's calculations.
10. It is appreciated that the proposed new dwelling would have a more compact footprint than the existing building. However, the proposal also includes 2 outbuildings which would be located beyond the footprint of the existing dwelling. Therefore, the extent of the proposed development would be greater than the existing building. This in combination with the cumulative increase in footprint of both the new dwelling and the proposed outbuildings, and the increase in height would constitute, in this case, a materially larger building.
11. Consequently, the proposed scheme would constitute inappropriate development within the Green Belt in terms of local and national planning policy. As set out in paragraph 147 of the Framework inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

12. The appeal site is surrounded on 3 sides by other two-storey buildings. Beyond the hedged rear boundary of the site there are open fields with public rights of way providing views of the rear of the site. However, the semi-enclosed nature of the appeal site and proximity of development on either side as well as to the front, means the location of the proposed new dwelling and garage would not impinge on the openness of the site, spatially. That the proposed dwelling is narrower than the existing building would also provide slightly wider views along the sides of the appeal site and the proposed garage would not encroach into these spaces. Therefore, these elements of the proposal would also not impinge on the visual openness of the Green Belt.
13. However, the proposed garden building would be positioned further into the rear garden and close to one of the side boundaries of the appeal site. This would encroach into an otherwise open area of the appeal site and be visible when viewed from the rear. Although this intrusion into the site is reasonably small, it would nonetheless constitute an intensification of development and curtail views through the site. Therefore, the proposed garden building would both spatially and visually harm the openness of the Green Belt.

Other considerations

14. The appellant has gone into some detail including the drawing of plans, to show what could be implemented on the appeal site under permitted development rights (the PD scheme). Several lawful development certificates and confirmations that prior approval would not be required have also been issued by the Council. These confirm the possibility for such works to be undertaken. Therefore, the PD scheme is clearly defined and there is a greater than theoretical possibility that it might take place. From the information before me it is also evident that the resulting building and outbuilding from the PD scheme would be larger than that proposed and cover a larger percentage of the site. Accordingly, it would have a considerably more harmful impact on the Green Belt and its openness than the proposed development.
15. It is noted that the Council considers the PD scheme unlikely to be built due to the narrow spacing between the proposed side and rear extensions, but I do not find this argument so compelling as to disregard the PD scheme.
16. It is also acknowledged that the proposal would not harm the character and appearance of the area, living conditions of neighbouring residents, highway safety, ecology, and air quality. As these constitute a lack of harm however they cannot weigh for or against the proposal.
17. Nevertheless, the real potential that the PD scheme could be built and would have a more harmful impact on the Green Belt, outweighs the totality of harm that would be caused to the Green Belt by the proposed development, by reason of inappropriateness and through its modest harm to openness. The very special circumstances necessary to justify the development, in this instance, therefore exist.

Conditions

18. The Council has suggested several conditions which have been viewed by the appellant, and I have considered them against advice in the Framework and

Planning Practice Guidance. As a result, I have amended them for consistency and clarity and combined them where necessary to avoid duplication.

19. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty. Given the proximity of the appeal site to Manchester Airport and its associated flight paths, and to ensure their safe operation, conditions 3, 4, 8, 9 and 11 have been imposed. Conditions 3 and 4 are required to be pre-commencement as they are fundamental details relating to safety, so need to be agreed upfront.
20. Conditions 5 and 6 have been imposed in the interests of character and appearance, condition 7 is necessary to safeguard biodiversity and condition 11 is required to protect the Green Belt and its openness by ensuring adequate control over development.

Conclusion

21. For the reasons given above although the appeal scheme would not comply with the development plan when read as a whole, there are sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, allowed.

RJ Redford

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Alt_(02)001 Revision A; Alt_(04)001 Revision B; Alt_(04)002 Revision A; Alt_(04)003 Revision A; Alt_(04)004 Revision B; Alt_(04)005 Revision A; Alt_(04)006 Revision A; Alt_(04)007 Revision A; Alt_(04)008 Revision A; Alt_(04)100; Alt_(04)110; and Alt_(04)111.
- 3) Prior to the commencement of development, including demolition, a dust and smoke management scheme for the full duration of all demolition and construction works, preferably using a containment tent, in accordance with the advice of Manchester Airport and the Civil Aviation Authority shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 4) Prior to commencement of the development, including demolition, a management plan to prevent birds being attracted to the site during construction and in perpetuity shall be submitted to and approved by the local planning authority. The development shall then be carried out and maintained in accordance with the approved details.
- 5) No construction above ground level shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in

writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 6) The development hereby permitted shall not be occupied until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The details shall include, but are not limited to:
- details of hard landscaping;
 - planting plans with new trees positioned in accordance with the requirements of Table A.1 of BS5837:2012;
 - 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 including confirmation that they comply with the requirements of British Standard 3936, Specification - for Nursery Stock; and
 - an implementation and maintenance programme.

The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is sooner, and then maintained in accordance with the approved maintenance programme.

The maintenance programmes shall include that any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The development hereby permitted shall not be occupied until features to enhance the biodiversity value of the development have been installed in accordance with details that have first been submitted to and approved in writing by the local planning authority. These details shall include provision of features for nesting birds including house sparrows, and once installed shall thereafter be retained and maintained.

- 7) External lighting or flood lighting shall only be installed in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 8) Reflective materials (including solar PV), other than the glazing hereby approved, shall only be added to the buildings or site in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 9) Pools or ponds of water should only be created in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C, D and E of Part 1 of Schedule 2 of the Order shall be undertaken.

END OF SCHEDULE