



Appeal Decision

Site visit made on 30 July 2024

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2024

Appeal Ref: APP/R0660/W/24/3340826

Alderley Mill Cottage, Congleton Road, Nether Alderley, Cheshire SK10 4TW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr & Mrs Johnson against the decision of Cheshire East Council.
- The application Ref 23/3119M, dated 11 August 2023, was refused by notice dated 2 January 2024.
- The application sought planning permission for the demolition of existing dwelling and construction of a replacement dwelling with garden terrace without complying with a condition attached to planning permission Ref 21/3280M, dated 13 January 2022.
- The condition in dispute is No 2 which states that:
The development hereby approved shall be carried out in total accordance with the approved plans: Drawing No. PA-24 (Proposed Floor Plans and Elevations), Drawing No. PA-23 (Proposed Site Plan), Drawing No. PA-22 (Proposed Block Plan), Drawing No. PA-00 (Site Location Plan), received by the Local Planning Authority on 16th June 2021 except where varied by other conditions of this permission.
- The reason given for the condition is:
For the avoidance of doubt and to specify the plans to which the permission/consent relates.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and construction of a replacement dwelling with garden terrace at Alderley Mill Cottage, Congleton Road, Nether Alderley, Cheshire SK10 4TW in accordance with the application Ref 23/3119M, without compliance with condition number 2 previously imposed on planning permission Ref 21/3280M dated 13 January 2022 and subject to the following condition:
 1. The development hereby permitted shall be carried out in accordance with drawing nos: PA-30, PA-32, PA-33 and PA-34.

Background and Main Issue

2. Planning permission was granted for the demolition of an existing dwelling and construction of a replacement¹ (the original permission). At the time of my site visit the replacement dwelling was nearing completion albeit it is not built in accordance with the approved plans of the original permission.
3. The appellant wishes to amend condition 2 of the original permission in order to vary the approved plans so as to rectify this matter and reflect the dwelling as built. The changes concern the insertion of dormer windows, along with

¹ Council ref: 21/3280M

alterations to the fenestration and external terrace, and the omission of a chimney.

4. The main issue is therefore whether varying the condition would result in inappropriate development in the Green Belt.

Reasons

5. This appeal concerns a large, detached dwelling located in the Green Belt. The replacement dwelling approved in the original permission was assessed against Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030 (July 2017) (the CELPS), Policy RUR13 of the Site Allocations and Development Policies Document (December 2022) (the SADPD) and The National Planning Policy Framework (the Framework).
6. These policies regard the construction of new buildings as inappropriate development in the Green Belt, which should not be approved except in very special circumstances. Together they allow for the replacement of dwellings which are not materially larger than the dwelling they seek to replace as an exception to inappropriate development in the Green Belt.
7. The original permission was granted on the basis that the replacement dwelling would not be materially larger than the original dwelling which it sought to replace. The Council now consider that the resultant dwelling of the appeal proposal would result in inappropriate development in the Green Belt as it would be materially larger than the original dwelling.
8. The introduction of the dormer windows results in a negligible increase in floorspace and volume compared to the dwelling approved in the original permission. When compared to the original dwelling which was replaced, this increase would also be very limited. The appeal proposal would result in no change to the height, siting and footprint, and a very modest and nominal change to the bulk, form and overall design of the original permission. Overall, the appeal proposal has an insignificant effect on the size of the replacement dwelling.
9. Whilst I note the Council's concerns with the altered basement windows, I consider that any resultant vertical emphasis is tempered by their sunken positioning and, moreover, this does not result in any other physical change or increase in height, volume or floor area.
10. All of the above leads me to conclude that the appeal dwelling would not be materially larger than the original dwelling it replaces. It therefore accords with Policy PG3 of the CELPS, Policy RUR13 of the SADPD and the Framework which collectively seek to ensure that proposals do not result in inappropriate development in the Green Belt. Accordingly, the plans list condition is necessary in the interests of certainty however I shall amend it as requested and as set out above.

Other Matters

11. I acknowledge the concerns raised by neighbouring occupiers however the appeal property is well set-back from the highway and the site benefits from extensive mature boundaries. As such, it is not prominent in the street scene and views are extremely limited, particularly when the trees would be in full leaf. Any views which may be obtained of the dormer windows would not result

in harmful visual intrusion, nor would the dormers significantly increase the size of the replacement dwelling as originally approved or make it more dominant from public vantage points.

12. The garden walls of the appeal property are grade II listed and their significance appears to derive from the group value of the former formal walled garden and its associated properties. The site also falls within the Nether Alderley Conservation Area (the CA) whose special interest lies in its rural setting with historic buildings. The Council note that the addition of dormers and larger patio would not change the character of the new property. Based on all I have seen and read I consider the proposed alterations to be sympathetic additions which ensure the property remains commensurate with its plot and visually harmonious with its surroundings. Therefore, the appeal development preserves the character and appearance of the CA and the setting of the listed asset.

Conditions

13. The Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
14. The original development has already begun thus there is no need for me to impose a time limit condition. The Council also note that the only condition that remains relevant is the approved plans condition as condition nos 3 and 6-11 have been formally discharged and that the notification under condition 4 has been provided. There is nothing before me to suggest that conditions 5 and 12 have also not been met.

Conclusion

15. For the reasons outlined above, I conclude that the appeal should be allowed.

H Ellison
INSPECTOR