



Appeal Decision

Site visit made on 11 November 2024

by C Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2024

Appeal Ref: APP/R0660/W/24/3345954

Land off Birtles Lane, Birtles Lane, Over Alderley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs Ceri Turner-Hill against Cheshire East Council.
 - The application Ref is 24/0004M.
 - The development proposed is erection of a single dwelling and private architectural studio including landscape enhancements and associated works.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr and Mrs Ceri Turner-Hill against Cheshire East Council. This application is the subject of a separate Decision.

Background and Main Issues

3. The appeal is against a failure of the Council to determine the planning application within the prescribed period. As such, there is no formal decision notice. However, the Council's appeal statement sets out the reasons for refusal it would have provided had it determined the application. Based on this, the main issues in the appeal are as follows:
 - whether the proposal is inappropriate development for the purposes of the Framework¹ and any other relevant development plan policies.
 - the effect on the openness of the Green Belt.
 - the effect on the character and appearance of the area.
 - the effect on the setting of Vardentown, a Grade II listed building.
 - if the development is inappropriate, 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.

¹ The National Planning Policy Framework, December 2023.

Reasons

Whether inappropriate

4. The appeal concerns an open field which is situated in the Green Belt. Paragraph 154 of the Framework makes it clear that the construction of new buildings in the Green Belt should be regarded as 'inappropriate', although some exceptions to this are listed. However, it seems to me that none of the exceptions listed in paragraphs 154 and 155 of the Framework apply to the proposed dwelling and architectural studio. As such, I am led to determine that the proposal would be inappropriate development.
5. I have been referred to paragraph 84(e) of the Framework, which permits isolated homes in the countryside if they are of exceptional design quality. However, this is not one of the exceptions to inappropriate development listed in paragraphs 154 and 155. Hence, even if the proposal were to accord with paragraph 84(e) it would not alter my view that the proposal represents inappropriate development in the Green Belt.
6. I conclude on this issue that the proposal is inappropriate development which, by definition, is harmful to the Green Belt. The Framework advises that substantial weight must be given to this harm. The proposal also conflicts with Policy PG3 of the Local Plan². This policy takes a very similar approach to Green Belt development as the Framework.

Any other harm

Effect on openness

7. My attention has been drawn to a Supreme Court judgement³ which recognises that the word openness is open textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. In this case, the proposed dwelling would have both a visual and spatial impact on the Green Belt.
8. While the development would not be visually prominent from some viewpoints, it would nonetheless be seen from the site entrance in Birtles Lane. In spatial terms, the proposal would inevitably result in some loss of openness as the quantum of built development in this location would be increased by the presence of relatively sizeable detached buildings. This would conflict with the purpose of the Green Belt to assist in safeguarding the countryside from encroachment (as described in paragraph 143 of the Framework). Overall, the development would result in a moderate level of harm to openness.

Effect on character and appearance

9. This part of Birtles Lane has a distinctly open and rural character. While there is scattered development in the area, including near the appeal site, the wider landscape is mainly defined by agricultural fields, hedgerows and trees. It is an attractive area and, in recognition of this, the site and surroundings are within a Local Landscape Designation. The policies of the Local Plan recognise the significance of such landscapes.

² Cheshire East Local Plan, Local Plan Strategy 2010–2030.

³ R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3.

10. The appeal site is seen from Birtles Lane as a grassy field, with a wooden gate and hedge along the road frontage. As such, it contributes to the rural characteristics of the local landscape. While the proposal would include new planting and landscaping, it would also introduce built development on a site that is otherwise open and rural. I recognise that the buildings would be relatively low profile and set back into the site. Nonetheless, parts of the development would be evident when looking into the site from the Birtles Road frontage, especially near the entrance of the property.
11. I appreciate that a good deal of thought has been put into the design process. The Design Review Panel has praised the bespoke design of the proposed buildings and their relationship with the surroundings. I would agree that the development has architectural merit. However, this does not alter the fact that the proposal would be seen as incremental expansion of built form into a characteristically open part of Birtles Lane. This would have the effect of eroding the rural qualities of the lane. In my view, the architectural merits of the proposal are not sufficient to outweigh this harm.
12. I therefore conclude on this issue that the proposal would cause moderate harm to the character and appearance of the area. There would be conflict with Policies SD2, SE1 and SE4 of the Local Plan and Policies GEN1 and ENV3 of the SADPD⁴. In different ways, these policies seek to protect the character and appearance of the landscape. For similar reasons, there would also be conflict with Policies OA6 and OA8 of the Neighbourhood Plan⁵.

Effect on listed building

13. Vardentown is a historic Grade II listed building which is situated further along Birtles Lane to the north east of the appeal site. The building is separated from the site by a row of small dwellings (Varden Town Cottages) and there are also trees and vegetation along field boundaries which add to the degree of visual separation. From public vantage points in Birtles Lane, it would not be easy to see Vardentown and the proposed development together in the same views, especially as the development would be set back from the road frontage.
14. I therefore conclude on this issue that the proposed development would not harm the setting of Vardentown. There would be no conflict with Policy SE7 of the Local Plan, Policies HER1 and HER4 of the SADPD, or Policy OA5 of the Neighbourhood Plan. These policies all aim to protect heritage assets.

Whether very special circumstances exist

15. The Framework indicates that development that is harmful to the Green Belt should not be approved except in very special circumstances. For such circumstances to exist, the harm to the Green Belt and any other harm must be outweighed by other considerations.
16. I have found that the proposal would be inappropriate development and the Framework establishes that 'substantial weight' should be given to this harm. Added to this is the moderate harm arising through loss of openness and moderate harm to the character and appearance of the area.

⁴ Cheshire East Local Plan Site Allocations and Development Policies Document, December 2022.

⁵ Over Alderley Neighbourhood Development Plan.

17. I am mindful that the proposal would contribute to local housing supply and there would be a benefit to the local economy arising from the construction process. The design would also be energy efficient. However, given the relatively modest scale of the development, these benefits would be relatively minor and so only attract a small amount of weight in favour of the proposal. While the development includes an architectural studio, not a great deal of information has been provided to explain how this would be used or the economic benefits it would provide. As such, I assign these benefits a similarly small amount of weight.
18. Paragraph 84 of the Framework says that isolated homes in the countryside should be avoided unless certain circumstances apply. One such circumstance is described in part (e) which says *the design is of exceptional quality, in that it: -is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*
19. Even if I were to agree that the site is 'isolated' in the context of paragraph 84, little evidence has been provided to show how the development would help to raise standards of design more generally in rural areas. Nor am I convinced that the proposal would significantly enhance its immediate setting, especially as I have found that it would cause moderate harm to the character and appearance of the area. Therefore, I do not consider that the proposal accords with paragraph 84(e) of the Framework.
20. Overall, the benefits of the proposed development do not clearly outweigh the substantial harm caused by inappropriate development within the Green Belt (added to which is the moderate harm to openness and character and appearance that would arise). Therefore, the harm I have identified is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.

Conclusion

21. I therefore conclude that the appeal should be dismissed.

C Cresswell

INSPECTOR