



Appeal Decision

Site visit made on 20 November 2024

by **Paul Martinson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/R0660/W/24/3343934

Bullmore Farm, Weathercock Lane, Congleton, Cheshire CW12 3PZ

- 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 and Mrs P Kirby against the decision of Cheshire East Council.
 - The application Ref is 23/2575C.
 - The development proposed is described as: 'demolition of existing dwelling and erection of replacement dwelling including detached garage and associated landscaping'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been received from Mr and Mrs P Kirby against Cheshire East Council. That is the subject of a separate decision.

Preliminary Matters

3. The appeal application was one of two similar applications for a replacement dwelling submitted by the appellants both of which are subject to an appeal. The first application¹ was determined by the Council on 23 January 2023 and the second on 24 April 2024². This appeal relates to the first of these two applications. I have dealt with the two appeals separately. The appeal³ relating to the second application is the subject of a separate decision letter.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and the development plan policies;
 - the effect of the proposal upon the openness of the Green Belt;
 - the effect on Protected Species, specifically bats; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

¹ Ref 23/2575C.

² Ref 24/0801C.

³ Ref APP/R0660/W/24/3346588.

Reasons

Whether Inappropriate Development

5. The appeal site comprises of the main dwelling at Bullmore Farm which lies adjacent to Weathercock Lane and 'The Piggery', a single storey structure located further back into the site, to the south east of the main dwelling. A certificate of lawfulness⁴⁴ was granted in 1997 for the use of The Piggery (formerly a detached outbuilding) as a residential annexe.
6. The main dwelling, hereinafter referred to as Bullmore Farm, is a detached two storey house with predominantly rendered external walls and a tiled roof. The dwelling is set back behind a small front garden and lies within a large plot which includes The Piggery. The site is in a rural setting, backing onto open farmland and is outside of any defined settlement boundary.
7. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 154 makes it clear that, other than in specified circumstances, new development in the Green Belt is inappropriate unless any of the specified exceptions apply. One of these, at 154. d), is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy PG3 of the Cheshire East Local Plan Strategy (2017) (the LPS) follows the same principles. Policy PG6 of the LPS and Policy RUR13 1 (i) of the Cheshire East Local Plan Site Allocations and Development Policies Document (2022) (the SADPD) apply these same principles to all development outside of settlement boundaries, including Green Belt.
8. Policy RUR13 2 states that when considering whether a replacement building is materially larger, matters including height, bulk, form, siting, design, floorspace and footprint will be taken into account. Increases in overall building height and increases beyond the existing footprint have potential to be materially larger. These are logical parameters to have regard to in terms of defining whether or not a building is materially larger than that which it is proposed to replace.
9. I have been provided with details of the total floorspace of the existing and proposed dwellings. There is a dispute between the parties as to whether the proposed double garage should be included within these calculations. This would be a sizeable structure with a reasonably steeply pitched roof. It would be linked to the proposed dwelling by the proposed 2.1 metres high brick wall and would be positioned alongside the dwelling (albeit set further back into the site), bounding the edge of the driveway which also abuts the dwelling. This space is described as an open courtyard by the appellants. On this basis, it would have a clear visual affinity with the proposed dwelling, and I can see no reason why it should not be included within the calculations as part of the replacement dwelling.
10. The floorspace of the existing dwelling is 275 square metres whilst the proposed dwelling and garage would be 348 square metres. This would represent a sizeable increase in floor space of 26.5%. The appellants' figures also indicate an increase in volume of 44%, a substantial uplift. Whilst I accept that this includes canopies and walkways these nonetheless add to the overall bulk of the building and therefore, on this basis, should not be discounted. Moreover, the proposed volume

⁴⁴ Ref 29379/5.

does not include the proposed garage and thus the increase in volume is likely to be significantly greater.

11. I acknowledge that the proposal involves a greater proportion of floorspace on the ground floor than the existing dwelling. However, the footprint of the development would be significantly more sprawling than that of the existing dwelling and it would occupy a much greater proportion of the plot.
12. For the above reasons, the new building would, therefore, be materially and significantly larger than the one it would replace. Consequently, the proposal would be inappropriate development that is, by definition, harmful to the Green Belt. In accordance with paragraph 153 of the Framework, this is a matter to which I attach substantial weight.

Openness

13. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl, by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
14. The appeal site forms part of a small group of dwellings along this part of Weathercock Lane. Owing to the dispersed nature of the dwellings and their relatively large plots, the openness of the Green Belt is clearly evident around the existing buildings and the spaces between them. Bullmore Farm sits within a large plot with The Piggery to the rear. The plot is predominantly grassed and highly open to the north and north east of the Bullmore Farm dwelling. Uninterrupted views of the open countryside and rising hills beyond are gained across the appeal site from the road. A paved track cuts across this area but owing to its recessive appearance, surfaced in stone flags, and its narrow, curving nature it is not overly prominent and has only a limited effect on the openness of the plot. Overall, this space contributes significantly to the openness and spacious character of the area.
15. Whilst it would be mostly lower in height than the existing dwelling, the proposed replacement dwelling would have a much more extensive footprint. It would also occupy a much greater proportion of the width of the plot at the frontage of the site, resulting in a substantial increase in bulk and massing expanding into the spaces to the north and north east, reducing openness. The proposed wall and the proposed garage, would introduce built form where currently there is none, significantly reducing openness and limiting the visibility of the countryside beyond the appeal site in the aforementioned views.
16. For the above reasons, I conclude that the proposal would result in significant harm to the openness of the Green Belt, contrary to the provisions of the Framework in this regard. The proposal would also conflict with Policies PG3 and PG6 of the LPS and Policy RUR13 of the SADPD, described above.

Protected Species

17. Bats and wild birds are protected by law⁵ and their presence is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. There is a statutory duty on me to have regard to the conservation of biodiversity⁶.

⁵ Conservation of Habitats and Species Regulations (2017) & Wildlife and Countryside Act (1981).

⁶ Section 40 of the Natural Environment and Rural Communities Act (2006), as amended.

18. The appellant has provided a bat survey report⁷. This found evidence of three species of bat roosting within the building of Bullmore Farm. The report concluded that the proposal would result in the permanent loss of a brown long-eared bat breeding roost of a District level of importance and the loss of a summer non-breeding roost for common and soprano pipistrelle bats.
19. The Council's second reason for refusal was on the basis of a lack of detail with regard to the location for the proposed compensatory bat roost. The bat survey report dated 14 September 2023 includes details of a bat roost within the loft of the garage of The Piggery. The location of this feature is identified on a plan and detailed measurements and construction methodology are provided. Subject to this mitigation, which would be completed under licence from Natural England, the bat survey report concludes that the favourable conservation status of the brown long-eared and common and soprano pipistrelle bats can be maintained following the development. The bat survey report concludes that the mitigation would ensure that there would be no adverse impact on bat species resulting from the proposed development.
20. Whilst it is unclear from the evidence if this report was before the Council at the time of its decision, it nonetheless addresses the reasons for refusal of 23 January 2024 by providing detailed information with regard to the location and composition of the compensatory bat roost. I am therefore satisfied that the subject to planning conditions securing the bat roost and other mitigation, the proposal would avoid negative impacts on Protected Species.
21. It would therefore comply with paragraph 180 (d) of the Framework which amongst other things, seeks to minimise impacts on, and provide net gains for, biodiversity. For the same reasons, the proposal would comply with Policy SE3 of the LPS and Policy ENV1 of the SADPD which together seeks to ensure development proposals contribute to the conservation and enhancement of biodiversity and geodiversity and avoid negative impacts on Protected Species.

Other Matters

22. The appellants consider that the Council is contradictory in its assessment that the proposal would not result in harm to character and appearance despite concluding that there would be Green Belt harm. However, Green Belt harm by reason of inappropriateness and through an adverse impact on openness is not the same as harm to the character and appearance of the area and different considerations are involved. In that sense, case law has demonstrated that the visual dimension of the openness of the Green Belt does not exhaust all relevant planning factors relating to visual impact when development is proposed in the Green Belt. This means that it is possible that a development which would harm openness could result in no harm to the character and appearance of the area and vice versa.
23. The appellants set out that the contemporary single storey nature of the design of the proposed dwelling should gain significant positive weight in the planning balance. However, there is nothing before me to demonstrate that the proposed dwelling is truly outstanding or innovative in its design. Nonetheless, I acknowledge that its design would not appear incongruous in the context of its siting within an existing residential plot and in that regard it would be well-designed. However, the existing dwelling is also well-related to its setting and

⁷ Bat Survey Report by Ecology Elements, dated September 2023.

therefore I am not convinced that the appeal proposal would represent a significant visual improvement over the existing situation. I would note that an absence of harm to the character and appearance of the area carries neutral weight in the balance.

24. With regard to potential benefits of the appeal scheme, there would likely be minor economic and employment benefits arising from the construction works, although these would be limited by the relatively small scale nature of the proposal.

Planning Balance and Conclusion

25. The proposed development would be inappropriate development in the Green Belt and would harm openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
26. That I have found no harm to Protected Species carries neutral weight in the balance. Given the substantial weight to be given to Green Belt harm, including openness, relative to the limited benefits of the proposed scheme, the harm that would arise would not be clearly outweighed by other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist, such that the appeal should be dismissed.
27. I have considered all other matters raised but none outweigh the conclusions I have reached. For the reasons set out above, I dismiss the appeal.

Paul Martinson

INSPECTOR