



Appeal Decision

Site visit made on 21 January 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/A0665/W/24/3352049

Glenwood, Quarry Road, Neston CH64 7UA

- 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 Martin McManoman against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/03710/FUL.
 - The development proposed is demolition of existing dwelling and replacement with new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. Parties have been given the opportunity to comment on the changes and I have had regard to the comments received in the determination of this appeal.

Main Issues

3. The main issues are:
 - whether or not the proposed development would be inappropriate development in the Green Belt having regard to the development plan and the Framework, including the effect upon the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on ecology with particular regard to protected species and habitats; and
 - if the proposed 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.

Reasons

Whether inappropriate development

4. The appeal site is located within the North Cheshire Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction

of new buildings in the Green Belt is inappropriate development, other than for the specific exceptions set out in paragraph 154 of the Framework. Policy STRAT9 of the Cheshire West and Chester Council Local Plan Part One: Strategic Policies (2015) (LP Part One) requires the provisions of the Framework to apply to development in the Green Belt.

5. Paragraph 154 d) of the Framework allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. In relation to replacement dwellings in the Green Belt, Policy DM21 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (2019) (LP Part Two) states that proposals will be supported where the replacement dwelling would not be materially larger than the existing dwelling. The supporting text to this policy states that the replacement dwelling should not be materially larger (i.e. more than 10%) than the existing dwelling.
6. The appeal proposal is for the replacement of the existing part single and part two storey dwelling with a three-storey dwelling. The evidence suggests that the existing dwelling has a floorspace of 205.1m² and a volume of 1028.25m³. The appellant confirms the proposed floorspace would be 867m² and the proposed volume would be 3063.31³. Whilst the appellant has not provided percentage increase figures based on the existing house alone, it is clear that the floorspace and volume of the proposed dwelling would be significantly more than the size of the existing dwelling, significantly exceeding a 10% increase.
7. The appellant has drawn my attention to lawful development certificates for extensions and the erection of outbuildings approved by the Council¹ ('the permitted development fallback'). However, unimplemented development under permitted development rights cannot, on the basis of the interpretation of the plain words of the paragraph 154 d) of the Framework, be included.
8. Even if the floorspace and volume of the existing outbuildings on site was added to the relevant floorspace or volume calculation, the increased floorspace and volume of the replacement dwelling would still far exceed a 10% increase. Whilst the new building is in the same use, it would be materially larger than the one it would replace and would not meet the exception set out in paragraph 154 d) of the Framework.
9. Paragraph 154 g) of the Framework allows for the limited infilling or the partial or complete redevelopment of previously developed land, which would not cause substantial harm to the openness of the Green Belt. Even though the definition of previously development land set out in the Framework indicates that it should not be assumed that the whole curtilage should be developed, the appeal site would represent the redevelopment of previously development land.
10. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 153 of the Framework further states that when considering any planning application, substantial weight should be given to any harm to the Green Belt, including harm to its openness. The Planning Practice Guidance (PPG) provides advice on the factors that can be taken into account when considering the potential

¹ Erection of two detached outbuildings to house a private swimming pool and a garage (Council ref: 22/04377/LDC) and single storey rear extension, single storey side/rear extensions, single storey side extension, 3 x first floor rear extensions, two rear dormers to second floor and new front porch (Council ref: 23/02366/LDC).

impact of development on the openness of the Green Belt, with openness being capable of having both spatial and visual aspects.

11. The replacement dwelling would have a significantly greater floorspace and volume compared to the building it would replace. It would also be higher with a greater number of storeys and would have a larger footprint. A larger rear patio area is also proposed to its rear. Due to its increased size, the proposed dwelling would be prominent and highly visible from Quarry Road and from a public right of way which runs close to the side boundary of the site.
12. When the spatial and visual effects are taken together, there would be substantial harm to openness. Accordingly, the proposed development would not meet the exception set out in paragraph 154 g) of the Framework. This would also add to the harm to the Green Belt identified by reason of inappropriateness in relation to paragraph 154 d) of the Framework.
13. The appellant contends that paragraph 153 of the Framework does not apply to the appeal proposal as the footnote indicates that it does not apply to previously developed land or grey belt land, where development is not inappropriate. However, the appeal proposal is inappropriate. Furthermore, even if the appeal site is grey belt land, there is no substantive evidence before me to suggest that all of the requirements of paragraph 155 of the Framework, relating to the development of homes, are met. For example, it has not been suggested that it would meet a demonstrable unmet need for the type of development proposed. Accordingly, I find paragraph 155 of the Framework is not determinative in this case.
14. I conclude that the proposed development would be inappropriate development in the Green Belt having regard to the development plan and the Framework and would result in a substantial harmful effect on the openness of the Green Belt. In this regard, it would conflict with Policy STRAT9 of the LP Part One and Policy DM21 of the LP Part Two insofar as they require the provisions of the Framework to apply to development in the Green Belt.

Effect on character and appearance

15. Quarry Road is a rural route which leads away from the crossroads in Hinderton. As the route transitions away from the crossroads, it is enclosed by sandstone walls, hedgerows and mature trees, with glimpses of the fields beyond achievable. Occasional pockets of development, including large, detached dwellings that tend to be set back from the road in substantial plots are also present. Combined with the lack of footway and street lighting, this green edge to the route positively contributes to the country-lane character which assimilates into the wider rural setting.
16. Glenwood is a chalet style detached brick and render house with a central two-storey gable feature on its front elevation. It is positioned adjacent to a curved driveway and is set back from the road in a large verdant plot which is separated from the adjoining fields by a mixture of hedgerow and post and rail fencing. Its modest scale and the soft landscaping that surrounds Glenwood means that it is unassuming in the street scene and sits comfortably within the rural character and appearance of the locality.
17. The proposed three-storey dwelling would have a contemporary appearance and would incorporate three-storey gable features, two-storey bay windows, feature

glazing and a 1.5 storey projecting garage to its front elevation. Its rear elevation would comprise large areas of glazing, dormer windows, juliet balconies and would incorporate a rear projecting swimming pool with large balcony above accessed via an external staircase. Its size combined with its complex design incorporating many design features would result in a substantial eye-catching dwelling. Its higher eaves and ridge combined with its wide frontage and deeper more sprawling footprint would result in a more dominant roof form and massing compared to the existing dwelling.

18. As a result, the proposed development would not reflect the more modest farmhouses or other buildings more typical of the surrounding rural area and would result in an obtrusive feature in the rural area. The proposed dwelling would be prominent along Quarry Road and from the adjacent public right of way. Whilst landscaping is proposed which may provide additional screening of the appeal proposal, this would likely take a significant period of time to establish and even then, would not fully assimilate the proposed development into its rural surroundings.
19. None of the examples of other large modern dwellings located near to the site along Quarry Road that I saw on my site visit, were directly comparable to the appeal proposal in terms of the scale, design and site-specific circumstances. In any case, they do not form the prevailing character and do not justify the site-specific harm identified.
20. I conclude that the proposed development would have a harmful effect on the character and appearance of the area. Conflict would therefore arise with Policy ENV6 of the LP Part One and Policies DM3 and DM21 of the LP Part Two which require development to respect local character. For the same reasons, the appeal proposal would conflict with the Framework, notably paragraph 135 which requires decisions to ensure that developments are sympathetic to local character.

Effect on ecology

21. The appellant has submitted an updated Preliminary Bat Roost Assessment (August 2024) (PBRA) and Bat Nocturnal Survey (August 2024) (BNS) with the appeal. The Council has had an opportunity to review and comment on this evidence within its appeal statement.
22. The PBRA initially identified the buildings on site as offering a negligible to low potential to support bat roosts. However, the BNS recorded a moderate level of common pipistrelle foraging activity, with two bats recorded as emerging from the existing dwelling, raising the bat roost potential to high. The BNS also advises that a further bat survey be undertaken. The Council's Natural Environmental Officer suggests that more than one survey may be required as previous surveys may no longer be up to date. In the absence of the recommended surveys, I am not able to ascertain the full effects of the proposed development upon bats, including whether any additional mitigation measures or a European Protected Species license would be required.
23. It is not possible to secure these additional surveys via condition since it is necessary to determine the full effect of the appeal proposal on ecology, including any effects on protected species upfront. Whilst accounting for the appellant's commitment to new planting and the mitigation measures set out in the BNS, I must take a precautionary approach and in the absence of the required surveys I cannot

be certain that this would provide an appropriate level of mitigation and compensation should this be required.

24. I conclude that it has not been satisfactorily demonstrated that the proposed development would not have a harmful effect on ecology with particular regard to protected species and habitats. In this regard, it would be contrary to Policy ENV4 of the LP Part One and DM44 of the LP Part Two which seek to protect habitats, sites and/or features and requires development likely to have an impact on protected species to be accompanied by an Ecological Assessment that complies with industry best practice and guidance. The proposal would also conflict with Paragraph 187 of the Framework which seeks to enhance biodiversity and supports priority or threatened species such as bats.

Other considerations

25. If the appeal proposal were to be dismissed, the appellant suggests the permitted development fallback could be built. Comparison plans to show the differences between the permitted development fallback and the appeal proposal have not been provided. Even so, the size and position of any outbuildings and extensions would be constrained by the conditions and limitations set out in permitted development rights². Without any evidence to demonstrate otherwise, I find that this fallback would likely have a lesser impact on the openness of the Green Belt than the appeal proposal. My finding factors in any single storey outbuildings that could be constructed under permitted development rights, even if they were to occupy a larger proportion of the rear garden. Furthermore, the permitted development fallback would ensure that the current building remains, and even with extensions, it is more likely that the design would be more in keeping with the character and appearance of the surrounding area. As a result, the potential for the permitted development fallback to be implemented is a matter that carries limited weight.
26. The proposal would make a neutral contribution to housing supply since the proposal is for a replacement dwelling. There would be small economic benefits associated with jobs created during construction. The appellant also suggests that the existing dwelling is run down and not practical for modern-day family living with an inefficient layout. They indicate that a replacement dwelling would provide a cost-effective solution to providing a modern dwelling on site with associated social benefits. However, in the context of a single replacement dwelling, these matters attract very limited weight in favour of the proposal.
27. The appellant has suggested that they would be willing to agree to a condition removing permitted development rights and a legal agreement to retract existing permitted development rights. However, even if appropriate planning mechanisms were available to secure this, this would not address the harm to the Green Belt identified.
28. The Grade II Listed building known as Quarry Lodge is a former lodge to Hinderton Hall with rock-faced sandstone walls and a slate roof, located on the opposite side of the road to the appeal site. In considering whether to grant planning permission, I have been mindful of my statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. The potential for the appeal

² The Town and Country Planning (General Permitted Development) (England) Order 2015

proposal to impact on the setting of this listed building has been raised by the Council but is not a matter in dispute. Having considered the nature of the appeal proposal and relationship of the appeal site and the listed building, I am satisfied that no harm to the setting of this building would arise. Whilst I find no harm in this regard, it is a neutral factor in my determination, neither weighing for or against the appeal.

29. The Council identified no other harm over that listed in its decision notice including in relation to living conditions for neighbouring occupiers and trees. However, these considerations indicate the absence of harm in those particular respects rather than attracting weight in favour of the development.

Green Belt Balance

30. The proposed development constitutes inappropriate development in the Green Belt to which I attach substantial weight. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances. The proposed development would also result in substantial harm to the openness of the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I have also identified other harm both to the character and appearance of the area and to ecology. The substantial weight to be given to Green Belt harm and other harms identified, is not clearly outweighed by the other considerations in this case and therefore the very special circumstances needed to justify the proposed development do not exist.

Other Matters

31. The appellant has drawn my attention to a planning permission for a replacement dwelling at Greygarth³ in Warrington. This example is located in a different area with differing circumstances that are not directly comparable with those which apply in this appeal. Even if similar dwellings have been approved elsewhere, my decision is based on the merits of the proposal, the most relevant local and national planning policy and my own planning judgement. Furthermore, the appellant's concern regarding the handling the planning application is not a matter for this appeal.

Conclusion

32. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR

³ Warrington Borough Council Ref: 2023/01039/FUL