



Appeal Decision

Site visit made on 5 June 2025

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 June 2025

Appeal Ref: APP/A0665/W/25/3360571

Clemley Cottage, Burgess Lane, Northwich, Cheshire WA6 8PA

- 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 D Kirkham of K and L Property against the decision of Cheshire West and Chester Council.
 - The application Ref is 24/00107/FUL.
 - The development proposed is a replacement dwelling (demolition of existing house).
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Decision

1. The appeal is allowed, and planning permission is granted for a replacement dwelling (demolition of existing house) at Clemley Cottage, Burgess Lane, Northwich, Cheshire WA6 8PA in accordance with the terms of the application, Ref 24/00107/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. In response to the Council's second reason for refusing planning permission, the appellant submitted the Update Ecology Appraisal ("the Appraisal"). After reviewing the Appraisal the Council now contends that, subject to the imposition of planning conditions to secure reasonable avoidance measures as detailed in the Appraisal, bat and bird boxes and suitable lighting, the proposal would accord with Policy ENV 4 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies ("LP1") and Policy DM 44 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies ("LP2"). I agree.

Main Issues

3. The main issues are (a) whether the proposal would be inappropriate development in the Green Belt, having regard to the development plan and the National Planning Policy Framework (the Framework); (b) the effect of the proposal on the openness of the Green Belt; and (c) if the proposal is inappropriate development, 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. In accordance with LP1 Policy STRAT 9 and LP2 Policy DM 19, the proposal would, in principle, be a replacement building in the countryside. However, such development must be of an appropriate scale. Furthermore, according to LP2 Policy DM21, the replacement dwelling should not be materially larger than the existing dwelling. This accords with Framework paragraph 154 d) and Policy HOU1 of the Norley Neighbourhood Plan ("NP").
5. The Council say that the existing dwelling has a gross external floor area of

roughly 89m² and a volume of around 178m³. The proposed replacement dwelling would have a gross external floor area of around 139m² and an approximate volume of 328m³.

6. Whether the proposal is materially larger or not is an objective assessment of its size. The explanatory text to LP2 Policy DM 21 sets out as a general guide that replacement dwellings in the Green Belt should not be materially larger (i.e. more than 10 per cent) than the existing dwelling. The proposal would be considerably above that guidance, with an approximate volume increase of 84%. That said, the proposed dwelling would have a narrower frontage but with a greater depth, albeit with slightly lower eaves. However, the greatest increase compared to the existing dwelling would be its ridge height and the floor space that would be created at first-floor level that would be considerably bulkier than the existing dwelling. Therefore, the replacement dwelling would, in my judgement, be materially larger than the existing dwelling.
7. As such, I conclude on this issue that the proposal would be inappropriate development in the Green Belt, having regard to the development plan and the Framework. Hence, the proposal would conflict with LP1 Policy STRAT 9, LP2 Policies DM19 and DM21, NP Policy HOU1 and Framework paragraph 154 d), which, among other things, collectively support replacement dwellings subject to their scale not being materially larger than the existing dwelling.
8. The Council refers to NP Policy HOU3 on this issue, but that policy covers design and layout matters rather than assessment of whether a replacement dwelling is materially larger or not.

Openness

9. Openness has a visual and spatial aspect. The Framework confirms 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.
10. The proposed dwelling would be sited in roughly the same part of the site as the existing dwelling. Therefore, spatially there would be little difference in openness terms to the existing dwelling. However, visually, the proposed dwelling would be higher and have a greater bulk at the first floor. As such, this additional built form would reduce the openness of the Green Belt, given that the site is open to the south, east and west. However, its siting near to established landscaping along the boundary and along the access leading up to the site would lessen its effect. I therefore conclude, on this issue, that the proposal would cause a limited loss of openness in the Green Belt, causing conflict with Framework paragraph 142.

Other considerations

11. The appeal property benefits from two lawful development certificates ("LDC"), and a planning permission for an extension to the rear of the existing dwelling ("rear extension"). An LDC was issued in respect of a detached outbuilding to the side/rear of the existing dwelling. A further LDC was issued for a front porch extension, a single storey side extension and a part two-storey/part single-storey rear extension ("the multiple extension scheme").
12. The appellant says that if this appeal is dismissed then they will proceed with extending the existing dwelling. The rear extension planning permission is extant, and there do not appear to have been any changes in circumstances since the LDCs were issued. However, the appellant's preference is to build a replacement

dwelling, as the existing dwelling does not cater to the appellant's family's needs. I therefore consider that the appellant is intent on using the appeal site to create a home suitable for his family and that there is a real prospect of the fallback position taking place, hence it is material to my decision.

13. With the multiple extension scheme, the existing dwelling would be around 17 metres wide and 10.95 metres deep. It would therefore increase the dwelling's footprint to the south and the east, with the former considerably more than the footprint of the proposed dwelling. The rear part of the multiple extension scheme would project further back than the proposed dwelling, but the latter would extend in front of the existing dwelling's front elevation and 'square off' the proposed dwelling's footprint compared to the existing dwelling. The multiple extension scheme would result in the existing dwelling being extended to have a gross external floor area of around 167m² and a volume of roughly 330m³.
14. Comparatively, the proposed replacement dwelling would have a smaller gross external footprint by around 28m² and a slightly smaller volume by roughly 2m³. In size terms, the proposal would be less harmful than the multiple extension scheme. That said, the proposal would have a higher ridge line and a larger first floor compared to the multiple extension scheme, which would mean it would have a greater visual effect compared to the existing dwelling in situ. However, the elongated multiple extension scheme would see the existing dwelling cover a far greater footprint and significantly reduce the site's open character, as it would extend away from the established landscaping and towards an open field. The effect of this would be more harmful than having a higher dwelling but using less footprint. For these reasons, the fallback position advanced through the multiple extension scheme would be more harmful than the proposal. Hence, it weighs in favour of granting planning permission, and I give this very substantial weight.
15. I have had regard to the rear extension scheme and the appellant's point that they could implement this extension alongside part of the multiple extension scheme, but it is not necessary for me to consider these matters given my findings about the multiple extension scheme. I have also, for the same reason, not considered the appellant's point about Class AA permitted development rights and the LDC for the outbuilding, which would, in any event, if built, be a stand-alone building.
16. Although there are some similarities with the three appeal decisions referred to and the proposal before me, there are also critical differences. In the Forest Cottage decision, the fallback position was reliant upon detached outbuildings, unlike the fallback position here, which would see the existing dwelling extended. Character and appearance harm was also found, which is not the case here. The replacement dwelling in the Forrest Hill decision was also found to be more visually prominent and not aided by boundary planting in contrast to the proposed replacement dwelling here. The fallback position in this case was also found to have a greater visual impact on the openness of the Green Belt, which is not the case here. Lastly, the point made in the Glenwood decision about the fallback positions not being considered as part of assessing a proposal against Framework paragraph 154 d) is the approach that I have adopted in determining this appeal.
17. I concur with the Council's assessment about the proposal's effect on the character and appearance of the area, nearby occupiers' living conditions, future occupiers' living conditions, parking and access provision, and sustainable construction, subject to the imposition of planning conditions. These matters nevertheless carry neutral weight in the planning balance.

Conditions

18. I have imposed an approved plans condition in the interests of certainty. In the interests of the character and appearance of the area, I have imposed conditions regarding materials and hard and soft landscaping, albeit I have amalgamated two conditions. To minimise water consumption, I have imposed a condition so that the dwelling is designed and constructed to achieve this. To ensure safe and suitable access and appropriate parking and turning facilities, I have imposed a condition to secure further details. So that adequate safeguards are implemented for protected species and their habitat, I have imposed conditions so that the development is carried out in accordance with the reasonable avoidance measures, so that bat and bird boxes are provided, and to secure satisfactory external lighting.

Conclusion

19. The proposal is inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have also identified limited harm with the openness of the Green Belt. The Green Belt harm attracts substantial weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. In this case, the proposal would result in benefits but also cause harm. In my judgement, I consider that all the other considerations do clearly outweigh the identified harm. Hence, the very special circumstances necessary to justify the development exist, and although the proposal would not accord with the development plan as a whole, there are material considerations that indicate that I should take a decision other than in accordance with it.
20. For the reasons given above, I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: 1118-04 revision ii proposed site plan; and 1118-03 proposed dwelling floor plans and elevations.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as specified on the materials schedule submitted with the application.
- 4) Prior to the first occupation of the dwelling hereby permitted, details of hard and soft landscaping, including boundary treatments, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details within the first planting season following the first occupation of the dwelling. If within a period of 5 years from the date of initial planting, any trees or shrubs planted in accordance with the approved details are removed, die, become diseased or seriously damaged then replacement trees or shrubs shall be planted in the next available planting season with others of similar size and species.
- 5) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 6) An area for turning and parking cars and cycles shall be provided within the site prior to first occupation of the development hereby permitted in accordance with a scheme of details which shall have been submitted to and approved by the local planning authority. Thereafter, the space for turning and parking shall be retained and made available for use by the development hereby permitted at all times.
- 7) The development hereby permitted shall only be carried out in accordance with the Reasonable Avoidance Measures for the protection of bats, birds, great crested newts, badgers and hedgehogs, as outlined in section 4 of the update ecology appraisal dated 11 November 2024.
- 8) Prior to the first occupation of the dwelling hereby permitted, a scheme for the provision of bat roosting and bird boxes within the site shall be submitted to and approved in writing by the local planning authority. Details of the locations and specifications are required with the scheme to be submitted. The bat and bird boxes shall be installed in accordance with the approved details and retained in perpetuity.
- 9) No external lighting (other than street lighting and in private gardens) shall be installed in the development hereby permitted, until full details of any external lighting (lighting location, luminaries and fittings) have been submitted to and approved in writing by the local planning authority. The lighting scheme should be directional i.e. targeted at pathways away from the hedgerows and tree planting. If required, it should be low level and directional to prevent light spillage and minimise impact on bat activity. The approved external lighting plan shall be implemented in accordance with the approved details and thereafter retained. External lighting installation shall then only be carried out in accordance with the approved details.

END OF SCHEUDLE