
Appeal Decision

Hearing held on 10 May 2017

Site visit made on 10 May 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 June 2017

Appeal Ref: APP/A0665/W/17/3167251

Milton Brook, Barrow Lane, Barrow, Chester CH3 7HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Chesworth against the decision of Cheshire West & Chester Council.
 - The application Ref: 16/02675/FUL, dated 22 June 2016, was refused by notice dated 30 September 2016.
 - The development proposed is described as an application for an agricultural dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policy;
 - (ii) the effect on the openness of the Green Belt;
 - (iii) the effect on the character and appearance of the area; and
 - (iv) 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.

Reasons

Whether the proposal is inappropriate development

3. The appeal site is located within the North Cheshire Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. Paragraphs 89 and 90 of the Framework list a number of exceptions to this, with one of those exceptions being buildings for agriculture and forestry.
 4. At the Hearing, both the appellant and the Council took the view that the proposal would accord with the first exception under Paragraph 89 and would
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be, therefore, not inappropriate. However, whilst it is proposed that the dwelling would support an agricultural enterprise, the building in itself would be primarily intended for residential use.

5. Consequently, it would not be a building for agriculture or forestry and would not, therefore, accord with the exceptions under Paragraph 89 of the Framework. The Framework states that this is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances.

Openness

6. Paragraph 79 of the Framework sets out that a fundamental aim of Green Belt policy is to keep land permanently open. The appeal proposal would result in the provision of a substantial two storey family dwelling. It is noted that the topography of the land has dictated the proposed siting of the dwelling, as the location would enable the appellant views over most of the land of the farm and of people and vehicles entering the farm complex.
7. However, the dwelling would be located on a grassed paddock which is currently unfettered by built form. Moreover, the dwelling would sit outside the existing development on the farm complex. As a result, the proposal would result in an incursion of built form where currently none exists. As such, the proposal would lead to moderate harm to the openness of the Green Belt.

Character and appearance

8. The appeal site is located to the south west of the village of Barrow and is within open countryside. From observations made during the site visit, it was evident that the appeal site is located on one of two distinct, separate uses. The first being a holiday let complex, which is currently for sale and the second use is the farm enterprise, which is the location of the appeal site.
9. The farm comprises of a number of large, metal clad agricultural buildings and a motorhome, set within a large area of hardstanding. The proposed dwelling would be located within a paddock area that currently is enclosed by post and rail fencing.
10. It is acknowledged that the proposed location of the dwelling would offer wide ranging and far reaching views over the land of the farm. In the Council's submitted evidence it was contended that more suitable locations within the wider site were available to accommodate a dwelling that would have less of a visual impact. On the site visit the Council identified the location of this site, which is in the rear garden of Rose Cottage. This is a considerably more screened position due to the scale and maturity of vegetation which bounds the rear garden. However, due to this and the topography of the land, it is unlikely that a dwelling in this location would allow for extensive views over the farm. Furthermore, the Council also acknowledged on site that achieving the required separation distances from the existing cottage and the proposed dwelling may not be achievable in this location. Accordingly, it is accepted that the proposed location is the most suitable, with regard to ensuring wide ranging views over the farm complex.
11. Policy EC 23 of the Chester District Local Plan 2006 (the LP) states that one of the criteria for a new dwelling for a person engaged in full-time agriculture is that the size of the dwelling is acceptable having regard to the scale and nature of the activity and the essential functional/financial need for the dwelling.

12. The proposed size of the dwelling is approximately 294 m² and it would have a height of 8.8 metres. As part of their evidence the Council submitted a breakdown of recently approved agricultural dwellings outlining the size of the proposals and the scale of the agricultural enterprise. A brief discussion was held during the Hearing as to whether these dwellings are primary or secondary residences. Regardless of this, it is acknowledged that each proposal should be considered on its own merits and limited information was supplied in relation to the circumstances of each case. Nevertheless, from the submitted information, it is clear that when looking at a relatively wide range of rural enterprises, the scale of the proposed dwelling is significantly larger.
13. During the Hearing the appellant confirmed that he would be getting married in September 2017 and the size of his family will increase to two adults and three children. I am also mindful that in cases involving a large family some flexibility may be required. However, the resultant dwelling would have a considerable amount of accommodation, including office and utility spaces, and is a substantial dwelling in relation to the size of the farm enterprise.
14. The appellant contends that the dwelling would be seen in the context of other buildings on the farm and from a distance. However, the proposed location would result in a single dwelling within a field, which is separated from the main agricultural buildings. Consequently, the proposal would introduce a dwelling of a substantially dominant scale and bulk into what is currently a visually open part of the countryside, with prominent views across the fields.
15. It is noted that screening, in the form of tree planting, is proposed with the aim of reducing the visual impact of the dwelling. However due to the scale and location, it is not considered that screening would overcome the visual impact. Furthermore, the existence of screening is not a good justification to allow a development that would cause harm.
16. Reference was made by the appellant during the Hearing with regard to the dwelling at Tile Farm. It appeared, from the site visit that the scale of the Tile Farm dwelling is also of a significant scale. However, I have no information relating to the particular circumstances of this development and as such, a comparison is of limited relevance in this instance. Accordingly, I have considered the appeal before me on its individual merits.
17. It is accepted that public views of the dwelling from Barrow Lane would be extremely limited. Nonetheless, due to the scale and location of the proposal, the dwelling would harm the countryside setting in this location. Moreover, the dwelling would not be visually well related to the existing agricultural buildings on the farm. As such, the proposal would have an adverse effect on the character and appearance of the area. The proposal would not comprise one of the types of development that Policy STRAT 9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies 2015 (the CWCCLP) permits in the countryside, nor would it be of an appropriate scale. Therefore significant harm would occur to the character and appearance of this section of countryside in conflict with the policy. The proposal would also conflict with Policy EC 23 of the LP and Policy ENV2 of the CWCCLP which when taken together, amongst other things, aim to ensure new development protects and enhances landscape character and local distinctiveness.

Other considerations

18. Paragraph 88 of the Framework states that substantial weight should be given to any harm to the Green Belt and that 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 turn now to address those other possible considerations.
19. In supporting sustainable development, the Framework seeks to avoid new isolated homes in the countryside other than in special circumstances. These are set out in paragraph 55 of the Framework and include reference to situations where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
20. Policy EC 23 of the LP states that new agricultural worker's dwellings will only be acceptable where it can be demonstrated that an essential need exists for the dwelling. The policy relies on the advice in Annex 1 of Planning Policy Statement 7 (PPS7). However, PPS7 and its Annex have since been cancelled, and therefore can be afforded no weight. Nevertheless, national and local planning policies require a new dwelling here to be justified by an essential need.
21. Following the death of the appellant's father, the land involved in the farm was purchased by the appellant as a separate concern from the holiday let business, which forms part of the wider site. There is no residential accommodation on the agricultural land. Until recently, the appellant had been making use of the holiday cottages when they were vacant or sleeping in a motor home which is located on the hardstanding close to the entrance to the farm. The appellant was unable to confirm the number of times a month he stayed either in the motor home or in one of the cottages but stated it was regularly.
22. It is accepted that the use of the motorhome may be suitable for an occasional overnight stay; however at the site visit I noted that given the modest size of the motorhome it is not considered suitable for prolonged usage. The appellant and his family are currently residing with his mother who lives approximately 3 miles from the farm. The journey time from his mother's house takes approximately 10 minutes, although the appellant confirmed it can take significantly longer depending on traffic conditions.
23. From the financial evidence submitted by the appellant, the farm has been a profitable enterprise for the last 3 years. The Council also concur with this view. The appellant therefore would appear to be in a position to either finance the construction of a new dwelling or purchase one of the existing dwellings associated with the holiday let business.
24. No evidence was submitted with regard to whether any alternative accommodation close to the site is available to purchase or rent. However, the appellant confirmed at the Hearing that he did not consider that there was anything suitable within close proximity to the site. The Council also concurred with this view. Despite no substantive evidence being provided, I have no reason to doubt that there is no existing accommodation nearby which would meet the appellant's requirements.

25. The appellant has farmed on the site for over 14 years and the enterprise consists of 154 head of cattle, which includes beef, calf heifers and suckler cows. At any one time at least 20 calves are being hand reared. At the Hearing the appellant confirmed that whilst he is a trained builder, the farm is his only source of employment.
26. The appellant contends that a presence is required on the farm to deal with any issues of stock escaping and potentially getting into difficulty in the nearby river and to be in a position to identify any signs of illness or distress quickly. Furthermore, he needs to remain on hand for calving, which is unpredictable in terms of timing, and also for the general feeding and checking of the stock.
27. Although security against predation, theft, injury or disease is not normally a justification for a permanent dwelling, it can contribute to an overall functional need. There was some discussion at the Hearing about security issues on site, with the appellant confirming that a small number of incidents, including thefts and the opening of gates, have been reported to the police. The appellant confirmed that the site has guard dogs, CCTV and that concrete barriers and an electric roller gate are utilised. However, the appellant stated that the use of other technologies such as remote sensing is not appropriate for use with livestock and therefore maintains a presence on site is required.
28. A permanent residential presence at the site would clearly provide benefits to the efficiency of the enterprise by removing the need for the appellant to undertake repeat trips between his home and the holding. This would be particularly beneficial during calving.
29. The holiday let business is currently for sale, which consists of 3 holiday let dwellings and 4 full time residential dwellings. The appellant's mother is the main shareholder of this enterprise and confirmed during the Hearing that she wishes to sell all of the 7 dwellings collectively and is unwilling to sell one of the dwellings to the appellant.
30. The position of the appellant's mother is appreciated as she wishes to sell the holiday let business due to the need to repay a substantial loan. Nevertheless, given the price the business is being marketed at, the loss of a single dwelling from the total lot for sale would not appear to jeopardise her ability to re-pay the loan. In addition, no substantive evidence has been provided as to how the loss of one dwelling from the wider lot would detract from the overall attractiveness of the business in terms of its saleability.
31. Moreover, in terms of capital receipt I can see little difference between one of the dwellings potentially being purchased by the son as opposed to any other purchaser. I appreciate that the appellant does not own enough shares to prevent his mother from doing what she potentially wishes to do. However, the farm and the holiday complex are owned by the same company and given the personal family connections I do not see any solid reason why it would not be possible to rethink the strategy of the sale of the holiday business.
32. It is noted that the location of one of the existing dwellings may not afford the same extensive views over the land compared to the site for the proposed new house. However, given the close location of the existing dwellings I do not see why the fundamental need could not be fulfilled. In addition, such a location would be in a similar position to the holiday cottages that the appellant utilised on an ad-hoc basis, which was considered to meet his requirements.

33. In view of all the above, having regard to national and local planning policies that seek to avoid isolated new homes in the countryside, I accept that an essential need exists for the appellant to live permanently on the farm. However, I am not satisfied that this essential need could not be met by one of the existing dwellings and am unconvinced that this need should be met by the construction of an additional dwelling within the open countryside.
34. Moreover, the essential need is further undermined by the size of the proposed dwelling which would be of a significant scale in relation to the farm enterprise. The proposal therefore fails to fully comply with Policy EC 23 of the LP, Policy STRAT 9 of the CWCLP and paragraph 55 of the Framework.

Planning Balance

35. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. In this appeal there would also be harm to the openness of the Green Belt. While that harm would be moderate, the Framework specifies that substantial weight should be given to any harm to the Green Belt. Significant harm has also been identified in relation to the impact on the proposal on the character and appearance of the area and significant weight has therefore been attached to this.
36. Paragraph 88 of the Framework states that substantial weight is given to any harm to the Green Belt and that 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.
37. Although I have found an essential need for a dwelling to serve the needs of the farming enterprise, for the reasons given relating to the possibility of that need being addressed by one of the existing dwellings I attach only moderate weight to that need. There would be some moderate benefit arising from the agricultural enterprise and therefore a continued contribution to the rural economy. In addition, there would also be some small personal benefit for the appellant in terms of reducing travel time and costs from his mother's residence from the siting of the dwelling on the farm. Nevertheless I accord these factors only limited weight.
38. Against this background I find that the other considerations do not clearly outweigh the harm to the Green Belt and any other harm. Consequently the very special circumstances needed to justify the development do not exist. The development would also fail to comply with Policy STRAT 9 of the CWCLP which accords with the Framework in seeking to protect the Green Belt from inappropriate development.

Conclusion

39. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Helen Cassini

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Chesworth	Appellant
Rosamund Angela Chesworth	Appellant's mother
Annalea Chesworth	Appellant's daughter
Leslie Smith	LS Planning

FOR THE LOCAL PLANNING AUTHORITY:

Rob Charnley	Cheshire West and Chester Council
Connor Perrett	Cheshire West and Chester Council