
Appeal Decision

Site visit made on 4 July 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 17 July 2017

Appeal Ref: APP/A0665/W/17/3172237

Ashton House Nursery, Church Road, Ashton Hayes, Chester CH3 8AB

- 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 Ashton House Nursery against the decision of Cheshire West & Chester Council.
 - The application Ref 16/03038/FU, dated 14 July 2016, was refused by notice dated 11 January 2017.
 - The development proposed is the provision of additional car parking and landscaping in association with existing children's nursery.
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Decision

1. The appeal is allowed and planning permission is granted for the provision of additional car parking and landscaping in association with existing children's nursery at Ashton House Nursery, Church Road, Ashton Hayes, Chester CH3 8AB in accordance with the terms of the application, Ref 16/03038/FU, dated 14 July 2016, subject to the conditions in the attached schedule.

Procedural Matter

2. I understand since the Council refused planning permission that the Ashton Hayes and Horton-cum-Peel Neighbourhood Plan (Neighbourhood Plan) has been examined and a referendum held. The Neighbourhood Plan was made on 21 June 2017. In arriving at my decision, I have afforded policies within the Neighbourhood Plan full weight for decision-making purposes.

Main Issues

3. The main issues are: (i) whether the proposed development is inappropriate development in the Green Belt; (ii) the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it; and (iii) 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

Inappropriate development

4. STRAT 9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (Local Plan) explains *the intrinsic character and beauty of the Cheshire countryside will be protected by restricting development to that which requires*

a countryside location and cannot be accommodated within identified settlements. The policy sets out a number of types of development that will be permitted in the countryside. The appeal scheme is not one of them, but the policy does explain that additional restrictions will apply in line with the National Planning Policy Framework (the Framework). In this regard, the parties' refer to paragraph 90 of the Framework. This explains that engineering operations are not inappropriate development in the Green Belt *provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.*

5. The nursery, just as the village of Ashton Hayes is currently washed over by the Green Belt. Thus, the appeal site is not the last piece of Green Belt land in the village. Nonetheless, I understand the Council is, in the emerging Local Plan (Part two) Land Allocations and Detailed Policies Plan, preparing settlement boundaries for the village. In any event, this would not change the site's countryside location for the purposes of this appeal.
6. The proposal would constitute an engineering operation. I note this is the view expressed by the parties, subject to consideration of the effect of the proposal on the openness and purposes of the Green Belt which shall determine whether or not the development is inappropriate.

Openness and Purposes of the Green Belt

7. The Framework sets out 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.
8. There are slight ground level differences between the site, Pentre Lane and the dwellings which line the lane. Still, these are largely obscured by the mature hedgerow that extends along the site's south-western boundary and by the hedgerows that form the boundaries to the remainder of the land. The site itself is grassed and open. The access gate to Pentre Lane offers views from public vantage points across the site, while residents' in dwellings on the lane have views over the hedgerow and into the site. Although the car park would be sited close to the mature hedgerow, the proposed access, parking bays and the footpath to the nursery would together with the proposed lighting and boundary treatment, result in the introduction of built form. Vehicles would also occupy the land which, despite their comings and goings, would urbanise the site. Even though much of this would be well screened by existing or proposed landscaping and the ground levels would be lowered, a loss of Green Belt openness occurs regardless of whether or not a view can be taken of it. Thus, the proposal would result in a loss of openness in this location.
9. The Framework does not seek to make a distinction regarding the level of harm through a reduction in Green Belt openness, even if only 12% of the land would be used. It would be a harm to the Green Belt, which I give substantial weight as directed by paragraph 88 of the Framework.
10. The site is contained within established hedgerows and there is a single field gate in the northern boundary that provides access to a field used for play by the nursery. Although the proposal would result in new development in the field, there is a chicken run and pig pen in the north-western corner of the site. Also, a mound of timber pallets was evident near to the proposed parking area. Given these, together with the established boundaries, I do not consider that

the proposal would result in any encroachment beyond the site's boundaries into the adjoining countryside.

11. For these reasons, I conclude on this issue that the proposal would not be at odds with the purposes of including land in the Green Belt as set out in paragraph 80 of the Framework. However, I conclude that the appeal scheme would not preserve the openness of the Green Belt. This is a Green Belt harm that means the proposal would be inappropriate development in the Green Belt. As such, conflict would arise with Local Plan Policy STRAT 9 and paragraph 90 of the Framework.

Other considerations

12. Ashton House is a long-standing part of the community offering nursery facilities for children from the age of 6 weeks to the age of 11. Day-care for pre-school children is provided during the year, while a before school, after school and a holiday club are offered for children aged between 4 and 11 years. The nursery is open between 08:00 and 18:00 on Mondays to Fridays. I gather that the nursery is successful and popular due to its '*outstanding*' rating by the Office for Standards in Education, Children's Services and Skills (Ofsted).
13. Central to the appellant company's case, in the event that I found the proposal to be inappropriate development, is the existing parking and pick up arrangements, which are said to pose a serious highway safety issue. I note the Council is supportive of resolving the highway safety issues, but it is their view that the appellant has not robustly demonstrated that the proposed development is the only solution.
14. The nursery currently benefits from a large car park which is accessed from Church Road. Access into the car park requires either vehicles to turn right or left off the road. Church Road is a relatively well used and it has a footway on the opposite side of the road to the nursery. The road is said to be a cut through for drivers using the main 'A' roads to Chester and Manchester. In order for vehicles to access the car park they must navigate a gradual incline onto a gravel surface. The car park is not marked out into bays, but evidence along with my observations on site suggest staff vehicles are triple parked in rows next to a raised area used for play. Vehicles are also parked next to the nursery building and a mature hedgerow on the western boundary. Staff vehicles occupy the majority of the car park, with few remaining spaces available for parents, guardians or visitors to park. Outside of drop of and pick up periods, evidence suggests that this does not pose an issue.
15. However, during the pick-up period (17:00 to 18:00) there are a greater amount of vehicle and pedestrian movements to and from the nursery. This is not an unusual situation for a nursery or a school. Nevertheless, the current site specific arrangements mean that vehicles que on Church Road until there is space within the car park. I observed, at times, vehicles were 5 or 6 deep in either direction. Consequently, other road users manoeuvred around the stationary traffic at varying speeds in order to pass. On some occasions drivers used their horn to express their frustration. The stationary traffic also significantly hinders visibility in either direction for drivers leaving the site. Added to this, persons picking children up parked their vehicles in the lay-by near to the site, on the grass verge or the footway opposite. The latter narrowed the width of the road, which is not particularly wide near the nursery.

16. Due to the nursery's proximity near to the local community, journeys are also made on foot. This is likely to be more abundant in summer months due to the weather conditions and daylight. Even so, the current arrangements mean that young children and adults use the same access as vehicles and due to the lack of a footway on the eastern side of Church Road and a crossing point, walk in the road in amongst the stationary and or manoeuvring traffic.
17. Given the above, the current arrangements do pose significant highway safety issues for vehicular and pedestrian traffic associated with the nursery, but also other road users. While, the issue may only arise during a certain time of the day, the effect is potentially very serious and could result in frequent accidents from vehicle and pedestrian movements occurring in a short and confined space. Notably, evidence suggests that incidents have already occurred and although this has not resulted in serious injury or a fatality, the current arrangements have significant potential to do so. Moreover the Neighbourhood Plan¹ explains the need to improve the safety of pedestrians due to the increasing amount of through traffic and local traffic, speeding and parking often on pavements. Thus, notwithstanding the making of the Neighbourhood Plan, the current risks every weekday for children pedestrians, cyclists and motorists do need to be resolved.
18. So, while this scheme is the third proposal, I note the revisions which have been made to the earlier proposals². The changes include a reduction in the number of parking spaces proposed and the omission of a proposal to add a further classroom. The latter would have resulted in an increase in children and staff. While, I gather the nursery has grown over time which maybe a contributing factor to the current severe highway issues, my findings are based on the current circumstances and the appeal scheme before me.
19. Various options have been put forward and considered by the appellant with a view to finding a solution. A substantial amount of evidence for each option has been put forward regarding their feasibility, cost, effect on highway safety and planning considerations. While the Planning Committee and the Parish Council have expressed a view, as they are entitled to do, that the costings seemed high, they have not offered any substantive counter evidence either. Even so, the costings for options 4, 5 and 6 are substantial compared to the cost of implementing the appeal scheme. Aside to the financial commitment required, options 4, 5 and 6 would all result in a greater effect on the openness of the Green Belt and would involve considerable work to overcome ground level differences. While the cost is not a decisive factor in favour of the proposal, given the nursery's inability to financially carry out the other options, it is a consideration due to the highway safety issues.
20. Furthermore, having regard to the options considered, they each pose difficulties, whether this be a reduction in the number of parking spaces, for practical reasons, lack of enforceability or due to ownership or inability to accommodate the nurseries need. Thus, although the Council and residents express a contrary view, I do not consider that the alternative options offer a realistic way to fully address the highway safety issue that is occurring during the week. This is a view shared by the Council's Highway officer.
21. Turning to the proposal itself. This would result in 30 no. staff vehicles being

¹ Section 4.10, Key Issues

² Council Application Refs: 15/01828/FUL and 15/05033/FUL

parked in a new car park. As a result, this would mean the existing car park would be retained solely for the use of customers dropping off or picking children. Insofar as the new car park, vehicles would use Pentre Lane to gain access. The lane is relatively quiet and it serves residential dwellings on the lane itself and on Foxhunter Close which faces the site. While Pentre Lane is not particularly wide, two vehicles can pass each other and there is a footpath linking Church Road with Foxhunter Close along the lane. So, while the proposal would result in extra vehicle movements, I concur with the observations of the Council's Highway officer in that the proposal would only amount to a modest increase. The trial period also showed that staff arrive before the morning peak period when there were no vehicle movements from Foxhunter Close and there was very little pedestrian activity along Pentre Lane.

22. Even though the trial period only lasted a week, evidence confirms that the existing car park had greater room for vehicles to park and manoeuvre. The direct knock on effect was the highway safety issues currently experienced on Church Road did not occur. This supports the proposed number of spaces, given that Local Plan Policy STRAT 10 seeks developments that contribute to safer and secure transport and promote forms of transport that are beneficial to health. Similarly, the Council do not dispute the appellant company's view that the proposed development would accord with saved Policy HO19 of the Chester District Local Plan. Furthermore, the proposal represents a solution to the existing issues in accordance with paragraph 187 of the Framework. As a result, the proposal would significantly enhance the safe operation of highway network which is used by the wider community and it would result in health benefits, helping improve the quality of life and the local environment. I therefore attach a very great weight to this consideration, especially given the other options explored.
23. The nursery is an established community facility in the village and while parents may need to look elsewhere for nursery services in the event that the nursery was not there, evidence suggests that the nursery intends to remain in the village. Thus, I attach very little weight to the appellant company's point about parents needing to travel further. Nevertheless, it is a policy objective of the Neighbourhood Plan to support existing businesses. I attach a moderate positive weight to this consideration.
24. It appears to me that the appeal site lies just outside the conservation area. The proposal would be different to the nearby buildings. However, the form, layout and design of the proposal leads me to consider that it would have a neutral effect on the character and appearance of the conservation area. Accordingly, it would preserve the conservation area.

Other Matters

25. Although the future direction, in terms of its growth of the nursery is unclear, I have considered this appeal based on the evidence before me. While reference is made to an application³ for a car park and new access on Church Road for use by the village community, I do not have any details of this scheme before me nor do I know the Council's decision on this application. Also, I am not aware of any other schemes that my findings would apply to and in any event, this decision has hinged on whether the other considerations advanced in favour of the proposal clearly outweigh the harm to the Green Belt and any

³ Council Application Ref: 17/02412/FUL

other harm. Thus, it would not act as a precedent and any future proposals would need to be assessed on their planning merits, having regard to the development plan and the material considerations presented.

26. Despite concerns relating to flooding, the appeal scheme includes provision of a soakaway and the surfacing would be in a porous material while additional native planting would be introduced. Collectively, subject to a planning condition to secure further details, I do not consider that the proposal would lead to flooding.

Very special circumstances

27. The Framework clearly sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
28. While I have concluded that the appeal scheme would not result in conflict with the purposes of including the land in the Green Belt, I have concluded that the proposal would result in a loss of openness of the Green Belt. Hence, I have concluded that the proposal would be inappropriate development in the Green Belt. By definition this is harmful and I attach these harms substantial weight as required by paragraph 88 of the Framework.
29. However, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Conditions

30. I have had regard to the planning conditions suggested by the Council. A condition regarding the approved plans is necessary in the interests of certainty. I have combined this condition with the condition regarding the appellant company's ecological method statement. I have imposed conditions to secure a surface water drainage scheme, visibility splays, the car park's use and improvements to the existing access in the interests of flooding, highway safety and the free flow of traffic on the local highway network. Conditions to secure hard and soft landscaping have been imposed in the interests of character and appearance. I have imposed a condition to control when development or vegetation clearance occurs in the interests of biodiversity.
31. I have not imposed conditions in respect of a scheme for the management and use of the car park, as I do not consider that it is necessary.

Conclusion

32. For the reasons set out 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 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 093_01_01 C; 093_01_010 C; 093_01_015 C; 093_01_016 C; 093_01_017 A; and the Method Statement contained in the report prepared by Roy Leigh Ecology Ltd dated February 2016.
- 3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The hard landscape details shall include: proposed finished levels or contours; means of enclosure/boundary treatments (including new gates); surfacing materials; and external lighting. Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant, tree and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.
- 4) If within a period of 5 years from the date of initial planting, any trees or shrubs planted in accordance with the approved landscaping works are removed, die, become diseased or seriously damaged then replacement trees or shrubs shall be planted in the next planting season with others of similar size and species, unless the local planning authority gives its written approval to any variation.
- 5) The approved Pentre Lane access shall not be brought into use until visibility splays of 2.4 metres by 43 metres (measured down the centre line of the access road and the nearside channel line of the existing highway) have been provided at each side of the point of access. The visibility splays shall be kept clear of any object, vegetation or other obstruction of a height exceeding 0.9 metres above the level of the adjacent carriageway at all times thereafter. Any gate, bollard, chain or other means of obstruction across this approved access shall be positioned at least 5 metres from the back edge of the carriageway and shall be constructed to open into the site only.
- 6) No development or vegetation clearance shall be carried out on the site between 1st March and 31st August inclusive in any year, unless the site has first been inspected by a qualified ecologist and the results of the inspection have been approved in writing by the local planning authority.
- 7) Before the approved car park is first brought into use, a surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the car park becomes operational and shall thereafter be retained.
- 8) Before the commencement of development, a scheme for the widening of the existing Church Road entrance shall be submitted to and approved in writing by the local planning authority. The submitted details shall include a timetable for the work's implementation. The approved scheme shall be implemented in accordance with the approved timetable.
- 9) The car park hereby approved shall be used by staff of Ashton House Nursery only and the car park shall accommodate a maximum of 30 vehicles.