



Appeal Decision

Site visit made on 29 May 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2019

Appeal Ref: APP/A0665/W/19/3224797

Land off Top Road, Five Crosses, Frodsham WA6 6SL

- 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 Jeremy Heppell (Punch Partnerships PML Ltd) against the decision of Cheshire West and Chester Council.
 - The application, ref. 18/04815/FUL, dated 12 December 2018, was refused by notice dated 8 February 2019.
 - The development proposed is the Construction of two dwellings (Use Class C3) on land to the west of the Travellers Rest Public House, together with associated car parking, landscaping and other ancillary work.
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Decision

1. The appeal is dismissed.

Main issue

2. 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 any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area;
 - Whether the proposal would provide a suitable location for development, having regard to the housing strategy of the development plan and accessibility to services and facilities; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate

3. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, unless the development falls within certain listed exceptions. The relevant exception to the appeal site would be the 'limited infilling of villages.'
4. The accompanying text to Policy STRAT8 of the LP defines 'limited infilling' as 'filling of a small gap, up to two dwellings, in an otherwise built up frontage of a recognised settlement.' The appeal site is not within a defined settlement boundary, and is seen alongside the other sporadic development within the open countryside along the rural lane at this location, rather than being seen within a built-up frontage typical of sites within the settlement boundary.
5. In my opinion, there is a significant conflict between the proposal and the exceptions specified by Policy STRAT9 of the LP and the Framework. The appeal proposal would not constitute limited infilling or consist of the infilling of a built-up frontage of a recognised settlement. Accordingly, I find that the proposal would be 'inappropriate development' in the green belt.
6. Paragraph 143 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I therefore attach substantial weight to the harm arising due to the inappropriate nature of the appeal development.

Openness

7. Paragraph 79 of the Framework says 'the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.' Whilst there is no definition of 'openness' in the Framework, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development.
8. The appeal site is undeveloped and has an open aspect with views through the site to the countryside beyond. Whilst I note comments that there is development on all three sides of the appeal property, this takes the form of a more sporadic development, where development surrounding is experienced within the transitional semi-rural context between the village and the countryside beyond which is reinforced by the topography of the site, and the narrow rural carriageway along the front boundary with hedges bordering either side.
9. The main effect caused to the openness of the appeal site would be via the introduction of development which as a result of their massing, height and bulk would enclose this visual gap and degrade the appeal site's positive function in reinforcing the transitional and open appearance of this semi-rural locality. Whilst some of the openness could be retained via placement of the dwellings with views between visual gaps, the openness of the site and its contribution to the aims of the greenbelt would be further eroded. As such, the proposed dwellings would be a material addition to the amount of built development on the site, which has a resultant moderate effect upon the openness of the Green Belt in this location. Nevertheless, this additional effect of the development on the openness of the site, and on the Green Belt, adds to the harm already caused by reason of its inappropriateness.

Character and Appearance

10. The appeal site is a parcel of land located along a rural lane which leads out of the village of Frodsham. The settlement boundary is concentrated upon the core of development of Frodsham. At the edges of the settlement boundary the built development begins to become sparser and more rural in character with greater separation and visual gaps between buildings, with the appeal site forming part of the transition from an urban to a more open and pastoral setting. In this particular context at the appeal site, the surrounding built form is scattered and haphazardly placed with large gaps in between, compared to the regularised development centred upon the main spine roads and cul-de-sacs which typify the built form within Frodsham's settlement boundary. The undeveloped nature of the appeal site adds to the sense of open aspect and semi-rural location which is reinforced by the long distance views to countryside beyond.
11. The introduction of two dwellings would change the character of the subject site substantially to something much more formal and residential in appearance. To me, the removal of hedgerow to facilitate access and visibility splays, the combination of formal hard surfacing, landscaped gardens and the inherent residential paraphernalia associated with the proposed land use would result in significant harm to the character and appearance of the site and to the wider area. I afford the harm to the character and appearance of the area moderate weight.

Suitability of the site for development

12. The appeal site is greenfield land which lies within open countryside which is defined by the Council as being land outside of the settlement boundary, the nearest settlement boundary, being that of Frodsham, some 125 metres away. The site is accessed from Top Road, a narrow carriageway with hedges to either side and is minimally lit, with no footpath into the settlement.
13. The Council's Housing Strategy consists of Policies STRAT1, STRAT2 and STRAT9 of the *Cheshire West & Cheshire Council Local Plan Part One: Strategic Policies* (LP) which seeks that most new dwellings are located within defined settlement boundaries in accordance with a settlement hierarchy. The village of Frodsham is a 'Key Service Centre' where an appropriate level of new development will be brought forward to support new homes and economic and social development. There are however exceptions where development may be permissible outside of the settlement boundary if a proposal is for agricultural or forestry operations; replacement buildings; farm diversification; reuse of rural buildings; or expansion to facilitate commercial growth.
14. Given that there is no dispute between the parties with regards to the Council's position with regards to housing land supply, the Housing Strategy of the Development Plan and its locational criteria which revolves around settlement boundaries for housing development attracts significant weight.
15. The proposed development is outside of the settlement boundary and would not consist of any of the proposed uses which are noted as exemptions for development as identified above. The appellant states that the sustainability of the site should be given weight considering the appeal site is located approximately 7 minutes walk from a bus stop that provides a service every 2

hours to Northwich and to the Frodsham High Street and railway station. An enforcement appeal¹ is also submitted to support the appellant's case where a property in Essex gained consent for the demolition of two agricultural barns and the erection of two dwellings. In this case, despite the lack of services, the Inspector found that the development was sustainable, however gave limited weight to the housing strategy which concentrated growth within settlement boundaries due to Braintree Council not having a five year land supply.

16. The housing position and weight given to the housing strategy, as well as the specifics of this example case which involved replacement built form, rather than an undeveloped site such as the appeal site is a significant difference to the appeal site currently under consideration. As such, I do not find that the appeal decision for this site in Essex is analogous to the appeal site and therefore afford this appeal little weight.
17. Whilst I agree the site is within a relatively accessible location with access to local services, despite there being no pedestrian footpaths to the village; the access road being poorly lit; and an infrequent bus service; I do not find that the accessibility credentials of the scheme are sufficient to override the housing strategy to which I afford significant weight.
18. Given the above factors, I conclude that the proposed development would not be in a suitable location with regard to the housing strategy for the area, which seeks to limit development in the open countryside. The proposed development would therefore conflict with STRAT1, STRAT2 and STRAT9 of the LP, which together seek to locate new housing in accessible locations and to restrict development outside identified settlements to that which cannot be accommodated within them, or needs to take place in rural areas.

Other Considerations

19. Very special circumstances to justify inappropriate development 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.
20. The Council has not raised any concerns regarding the layout and design of the development and similarly has not raised any issues with regards to the size of the dwellings, amenity space, or the effect on the living conditions of the occupants of neighbouring development or future occupants as a result of the proposal. However, this indicates a lack of harm of the proposal in this regard rather than a benefit of the development.
21. I note that the Framework encourages the development of small sites and making effective use of urban land. The proposal would also deliver two further dwellings which will assist in meeting housing need, as well as result in short term employment opportunities in the construction of the dwellings, and the contribution to local expenditure from future occupiers. These factors weigh in favour of the development.
22. Despite this, these other considerations do not, either separately or cumulatively, clearly outweigh the harm by reason of inappropriateness and the additional harm to the openness of the Green Belt. As a result, the very special

¹ Appeal Refs: Z1510/W/16/3150953 & Z1510/C/16/3150966
<https://www.gov.uk/planning-inspectorate>

circumstances that are required to permit the development do not exist. The appeal development would therefore conflict with the provisions of the Development Plan and with the Framework, as referred to above.

Other Matters

23. I note comments with regards to the pre-application discussions where the appellant feels aggrieved by the refusal of the application given they feel they acted upon the pre-application advice. I have been presented with a copy of the pre-application advice² and I do not share the view that the development of the site was given a favourable appraisal. Despite this, the Planning Practice Guidance makes it clear that pre-application advice provided by the Local Planning Authority cannot pre-empt the democratic decision making process or a particular outcome, in the event that a formal planning application is made³.

Conclusion

24. In conclusion, the appeal proposal would not be a suitable location which would be contrary to the housing strategy. The appeal site would be inappropriate development in the terms set out in Policy STRAT9 of the LP and the Framework and, in addition, it would lead to a moderate loss of openness to the Green Belt and additionally would cause harm to the character and appearance of the appeal site. These issues are not outweighed by the considerations advanced by the appellant. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, for the reasons given above I conclude that the appeal is dismissed.

J Somers

INSPECTOR

² Email from Jill Stephens to Jeremy Heppel, dated 15/08/18

³ Paragraph: 011 Reference ID: 20-011-20140306 Revision Date 6/3/2014