
Appeal Decision

Site visit made on 22 May 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

Appeal Ref: APP/A0665/W/18/3218031

The Firs, Rear of, Newton Hollows Road, Frodsham WA6 6TE

- 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 Greg Page of Estuary View (NW) Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref 18/01853/FUL, dated 13 May 2018, was refused by notice dated 1 November 2018.
 - The development proposed is the redevelopment of vacant industrial land and premises to provide two dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of vacant industrial land and premises to provide two dwellings at The Firs, Rear of, Newton Hollows Road, Frodsham WA6 6TE in accordance with the terms of the application, Ref 18/01853/FUL, dated 13 May 2018, subject to the conditions listed in the attached schedule.

Main Issues

2. The main issues are:
 - whether or not the proposed development would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework; and
 - whether or not the appeal site is a suitable location for the proposed development having regard to the Council's settlement strategy

Reasons

Whether inappropriate development in Green Belt

3. The appeal site, consisting of vacant industrial buildings and hardstanding, is located within a loose group of buildings set around a road junction in a countryside location. The proposal would see the demolition of all the buildings on the site and the development of two dwellings.
4. The National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 lists certain forms of development which are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The list includes (g) redevelopment of previously

developed land, which would not have a greater impact on the openness of the greenbelt than the existing development.

5. That the site is previously developed is not at dispute between the parties, and on the basis of the information before me and as a result of observations at my site visit, I agree. Furthermore, it is not at dispute between the parties that the proposed development would not have a greater impact on the openness of the greenbelt than the existing development. The proposed development would result in the significant reduction in the extent of hardstanding, footprint and volume of development on the site.
6. Whilst the proposed dwellings would be viewed from the road and other publicly accessible locations in the surrounding area, they would not form dominant or incongruous features, and would not have a significant spatial or visual impact. As such, the proposed development would not have a greater impact on the openness of the Green Belt than the existing development.
7. For the reasons stated, I find that the proposal is not inappropriate development in the Green Belt. It is not, therefore, contrary to Policy STRAT 9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (the LP) which reflects the approach of the Framework with respect to development in the Green Belt.

Whether a suitable location

8. I have been directed to Policy STRAT 1 of the LP which indicates that new housing should be located where there is good accessibility to existing or proposed local shops, community facilities and primary schools, and with good connections to public transport. In addition to Green Belt matters referred to previously, policy STRAT 9 seeks to resist new development within the countryside to that which requires a countryside location. In respect of rural area, Policy STRAT 2 seeks to maintain the vitality and viability of rural areas by directing housing to identified key service centres which represent the most sustainable rural locations.
9. The site is located within the countryside, outside of an identified settlement and without immediate access to essential services without reliance on the private car.
10. However, the appellant as referred to an earlier appeal decision¹ and I note that there are a number of similarities with the development proposed here. In particular, the previous use of a site for commercial purposes would generate a number of vehicle movements and, in this instance, these vehicle movements would be replaced by those of the two proposed dwellings. The appellant's Highways Report identifies a reduction in vehicle movements from 12.66 per day to 8.544 as a result of the proposed development. As such, the redevelopment of this site as proposed would result in a significant reduction in vehicle movements.
11. Furthermore, the redevelopment of the appeal site would bring a previously developed site back into effective use. Furthermore, the existing buildings on the site are in a poor state of repair and it is acknowledged by both parties that their removal and the redevelopment of the site as proposed would enhance

¹ APP/A0665/W/16/3255284

the setting of the neighbouring locally listed building, The Firs, based on the information before me, I agree.

12. To conclude on this main issue, as a result of the location of the appeal site, the proposed development is contrary to Policies STRAT1, 2 and 9 of the LP.

Planning Balance

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
14. Although the site is located in the open countryside and future residents of the proposed development would not have access to essential services without reliance on the use of the private motor car, the proposed development would result in a reduction in the built form on the site and a reduction in vehicle movements onto and off the site and it is acknowledged by both parties that the removal of the existing sheds and the proposed development would improve the setting of the locally listed building next to the appeal site.
15. These are material considerations in favour of the proposed development and in this instance, I find that these considerations outweigh the conflict with policies STRAT1, STRAT2 and STRAT9 referred to above. This is inline with guidance set out in the Framework.

Conditions

16. I have considered the conditions proposed by the Council in the light of guidance in Planning Practice Guidance (PPG). As well as the standard implementation condition, it is necessary to define the plans in the interest of precision. In the interests of the character and appearance of the area I have included conditions controlling the external materials and landscaping to be used in the development. I have included a condition controlling the visibility splays to be provided, in the interests of highway safety.
17. To protect the environment and protected species I have included conditions in respect of contaminated land and bat protection measures. The Council and the Appellant were consulted with regards the proposed conditions and the appellant did not object to the imposition of the pre-commencement condition.
18. I have considered whether a condition removing permitted development rights, as suggested by the Council, would be reasonable in this case. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The PPG also advises that conditions of this nature will rarely pass the test of necessity and should only be used in exceptional circumstances. The proposed dwellings are modestly sized, on appropriately sized plots and as such I see no reasonable justification for restricting this right in this case.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

Mark Brooker

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: K295-1 Rev B Site plan; K275-6 Site and location plan; and, K295-2 Rev B Proposed house types- plots 1 and 2.
- 3) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) Prior to commencement of demolition works on site, a detailed mitigation strategy should be submitted to, and agreed in writing by the Local Planning Authority. The mitigation strategy shall be based on the outline strategy within Sections 10 and 11 of The Firs Newton Frodsham Bat Surveys Update Report 2018 by Jeff Clarke Ecology. All works shall be carried out in full accordance with the approved strategy.
- 5) Prior to first occupation of the dwellings hereby approved, visibility splays must be provided at each side of the point of access in accordance with Drawing K 295-1 Rev B. The splays shall be kept clear of any object, vegetation or other obstruction of a height exceeding 1m above the level of the adjacent carriageway at all times.
- 6) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details on plan K295-1 Rev B. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority.

End of schedule