



Appeal Decisions

Site visit made on 8 October 2019

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2019

Appeal A Ref: APP/A0665/W/19/3229332

Mount Pleasant Farm, Ainsworth Lane, Crowton, Northwich CW8 2RS

- 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 & Mrs W Hough against the decision of Cheshire West & Chester Council.
 - The application Ref 18/03099/FUL, dated 7 August 2018, was refused by notice dated 25 January 2019.
 - The development proposed is change of use to provide a single dwelling.
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Appeal B Ref: APP/A0665/W/19/3229337

Mount Pleasant Farm, Ainsworth Lane, Crowton, Northwich CW8 2RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs W Hough against the decision of Cheshire West & Chester Council.
 - The application Ref 19/00701/S73, dated 20 February 2019, was refused by notice dated 30 April 2019.
 - The application sought planning permission for use of land and building for agricultural and ancillary residential without complying with a condition attached to planning permission Ref 17/04202/FUL, dated 29 November 2017.
 - The condition in dispute is No 2 which states that: *"The residential accommodation which forms the ground floor of the building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Mount Pleasant Farm"*.
 - The reason given for the condition is: *"The establishment of an additional independent unit of accommodation would give rise to an over intensive use of the site, lead to an unsatisfactory relationship between independent dwellings, and have an adverse effect on sustainability through creating a new isolated dwelling"*.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for change of use to provide a single dwelling at Mount Pleasant Farm, Ainsworth Lane, Crowton, Northwich CW8 2RS in accordance with the terms of the application, Ref 18/03099/FUL, dated 7 August 2018, subject to the conditions set out below:
 - 1) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.

- 2) The development hereby permitted shall be carried out in accordance with the following submitted plans: location plan, site plan, floor plans as proposed and elevations as proposed.
- 3) No windows other than those shown on the approved plans shall be inserted into the south eastern elevation of the building which faces towards the existing dwelling.

Appeal B

2. The appeal is allowed and planning permission is granted for use of land and building for agricultural and ancillary residential at Mount Pleasant Farm, Ainsworth Lane, Crowton, Northwich CW8 2RS in accordance with the application reference 19/00701/S73 dated 20 February 2019, subject to the conditions set out below:
 - 1) The development hereby approved shall be carried out in accordance with the plans submitted with the application.
 - 2) No windows other than those shown on the approved plans shall be inserted into the south eastern elevation of the building which faces towards the existing dwelling.

Procedural Matter

3. The Council's Officer Reports and decision notices refer to a number of policies from the emerging Cheshire West and Chester Local Plan (Part 2) and the Vale Royal Borough Local Plan. The Council has advised that the emerging plan was adopted in July 2019, after the determination of the applications. It now forms part of the development plan and replaces the Vale Royal Borough Local Plan. I have determined the appeal accordingly.

Background and Main Issues

4. It appears from the evidence that various discussions have taken place between the appellants and the Council regarding the building that is the subject of the appeals and that it has been the subject of a number of applications. It seems that the original building had a number of structural issues and that prior to submitting applications in 2016 and 2017, works were carried out to the building to improve its condition.
5. When considering an application in 2017 to use the building for agricultural and ancillary residential purposes (Ref 17/04202/FUL), the Council considered the building to be a new building. As it was not considered to be a replacement building for the same use as the original building, the proposal was considered to be inappropriate development in the Green Belt. However, the Council approved the proposal as it considered that the particular circumstances of the case amounted to very special circumstances and that these outweighed the harm identified.
6. Condition 2 of 17/04202/FUL restricts the ground floor residential use of the building to ancillary accommodation to the main dwelling on site, the reason for the condition being that an independent unit of accommodation would not be acceptable due to it being an over intensive use of the site; due to the unsatisfactory relationship between the building and the existing dwelling and due to the fact that an independent dwelling would be isolated.

7. Having regard to the background to the applications and to the imposition of the condition, the main issues for both appeals 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;
 - whether the site is a suitable location for housing having regard to local and national policy.

Reasons

8. The appeal site comprises buildings and land at Mount Pleasant Farm. The building which is the subject of the proposed change of use is a brick building located within the main developed part of the site, opposite the existing farmhouse. At the time of my visit the upper floor of the building was being used to store hay bales and a number of large tins and containers. The site is located in the Green Belt.
9. When determining both applications the subject of these appeals, the Council considered that what was being proposed was a new build dwelling rather than the re-use of an existing building as stated by the appellants as it considered that the original building has been re-built rather than repaired. The appellants consider that even if that were the case, that by approving planning application 17/04202/FUL in 2017, the Council has in effect granted permission for the building to be retained. The appellants have submitted a legal opinion dated 1 May 2018 in support of their appeals which concludes that the 2017 planning permission effectively allows the retention of the building in its existing state. The Council has not commented on the opinion and no contradictory evidence has been submitted to dispute it.
10. The legal opinion also accepts that the works that took place to the building as a matter of fact and degree go beyond what could reasonably be considered to be repair and maintenance and at my site visit, I observed that the majority of the building appears to have been re-built and incorporates a new roof, new timbers forming the first floor and new brickwork. Based on the evidence before me, it appears that the building the subject of these appeals was effectively re-built sometime prior to planning permission being granted in 2017 (Ref 17/04202/FUL). Moreover, the planning permission for the mixed use of the building granted in 2017 also in effect granted permission for the building itself. Indeed, I note that condition 2 of 17/04202/FUL refers to "the building hereby permitted" and I have seen no evidence to suggest that the building the subject of these appeals is a different building to that referred to in the 2017 permission.
11. Consequently, and for the reasons stated above, I consider that the proposals are for the change of use of the existing building rather than for a new build dwelling.

Whether the proposal would be inappropriate development

12. Paragraph 146 part d) of the Framework states that the re-use of buildings is not inappropriate in the Green Belt provided that they are of permanent and substantial construction and that they preserve openness and do not conflict with the purposes of including land in the Green Belt.

13. Policy STRAT9 of the Cheshire West & Chester Local Plan (Part One) Strategic Policies adopted January 2015 (LP) sets out the types of development that will be permitted in the countryside and states that additional restrictions will apply to development in the Green Belt in line with the Framework. Policy DM1 of the Cheshire West & Chester Local Plan (Part Two) Land Allocations and Detailed Policies adopted July 2019 (LADP) similarly refers to compliance with Green Belt policies in the Framework.
14. Having fairly recently been re-built the building appears to be of permanent and substantial construction and I have seen no evidence to suggest that this is not the case. It is located within the main developed part of the site, close to other buildings and structures and it appears that the dwelling would have a modest sized curtilage positioned near to it with a 2 metre high fence proposed between it and the existing dwelling. As stated, permission exists for ancillary residential use of the ground floor of the building and having regard to its position relative to other buildings and development and to the size and position of the proposed curtilage, I consider that the proposal would preserve the openness of the Green Belt and would not conflict with Green Belt purposes. The proposal is not therefore inappropriate development in the Green Belt.
15. The proposal accords with Policy STRAT 9 of the LP, Policy DM19 of the LADP insofar as they relate to the Green Belt and to relevant paragraphs of the Framework which seek to restrict development in the Green Belt. The Council also refers to Policy DM22 of the LADP in its first reason for refusal. This policy relates to the change of use of buildings in the countryside to dwellings. Although the proposal does not fully accord with the requirements of this policy, I do not consider that this is determinative in this case as permission already exists for part of the building to be used for residential purposes.

Suitable location for housing

16. The building is located within an agricultural smallholding in a countryside location. Access to the site is via a track off Ainsworth Lane which serves the existing farmhouse and another property at Spring Bank Farm. Although not within a settlement, the site is reasonably close to Crowton which has numerous services and facilities including a pub, a church, a bus stop and a primary school. Crowton is identified as a local service centre in Policy R1 of the LADP. Additional facilities are available at nearby Acton Bridge.
17. Paragraphs 77 to 79 of the Framework deal with rural housing and paragraph 79 states that planning decisions should avoid isolated homes in the countryside unless one of the listed exceptions apply. This includes the re-use of redundant or disused buildings where their immediate setting would be enhanced. Similarly, the Council's policies seek to minimise the need to travel and to focus new development in the rural area in the most accessible and sustainable locations.
18. The location of the site and the nature of surrounding roads means that it is unlikely that future occupiers of the dwelling would access local services and facilities on foot or by bike. However, as stated, the site is close to the local service centre of Crowton and I consider it to be reasonably accessible and not isolated in the context of its particular rural location. Paragraph 103 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and in any event planning

permission already exists for the building to be used for a mixed use including residential, albeit ancillary to the main farmhouse. Consequently, I do not consider that the proposal would be likely to significantly increase the number of car borne journeys to/from the site.

19. Taking the above matters into consideration, I conclude that the site is a suitable location for housing having regard to local and national policy. It therefore accords with policies STRAT 1, STRAT 2, STRAT 8, STRAT 9 and STRAT 10 of the LP and policies R1 and DM19 of the LADP insofar as they relate to accessibility and the location of housing. These policies seek, amongst other things, to minimise the need to travel and to focus new development in the rural area in the most accessible and sustainable locations. As stated above, although the proposal does not fully accord with the requirements of Policy DM22 of the LADP, this is not considered to be determinative having regard to the particular circumstances of the case.

Other Matters

20. The reason for condition 2 of 17/04202/FUL also states that the creation of an independent dwelling would lead to an unsatisfactory relationship between the independent dwellings. However, I note that the Council has not raised any objection to the proposals in terms of the proposed inter-relationship between the existing and proposed dwellings. Having regard to the fact that there are only two window openings in the proposed dwelling facing the existing dwelling and that the plans show that these would be obscurely glazed, I see no reason to disagree with the Council on this issue.

Conditions

21. The Council has suggested one condition in relation to Appeal A regarding the removal of certain permitted development rights and control over alterations to the building.
22. Although not suggested by the Council, with regard to Appeal A, I have imposed a condition specifying the approved plans as this provides certainty. With regard to permitted development rights, I do not consider that the condition suggested by the Council is reasonable or necessary as there does not appear to be any justification for the removal of permitted development rights on the scale proposed. However, given the close relationship between the existing and proposed dwellings and in order to ensure satisfactory living conditions for occupiers of the dwellings, I do consider it to be reasonable and necessary to restrict the insertion of any further windows in the elevation of the building facing towards the existing dwelling. I have imposed the same condition on Appeal B as the removal of condition 2 would allow the building to be used as an independent dwelling. The parties were consulted on the imposition of this condition in relation to both appeals and no objections were raised.

Conclusion

23. For the above reasons and having regard to all matters raised, I conclude that the appeals should be allowed.

Beverley Wilders

INSPECTOR