



Appeal Decisions

Site visit made on 27 October 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2020

Appeal A - Ref: APP/A0665/W/20/3256499

Northwich Metals, Ollershaw Lane, Marston, Northwich, CW9 6ES

- 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 J Yoxall against the decision of Cheshire West & Chester Council.
 - The application Ref 19/03636/FUL, dated 30 September 2019, was refused by notice dated 21 May 2020.
 - The development proposed is 4 commercial units in 2 pairs with B2 use.
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Appeal B - Ref: APP/A0665/W/20/3256502

Northwich Metals, Ollershaw Lane, Marston, Northwich, CW9 6ES

- 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 J Yoxall against the decision of Cheshire West & Chester Council.
 - The application Ref 19/03798/FUL, dated 14 October 2019, was refused by notice dated 14 April 2020.
 - The development proposed is new office and workshop building.
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Appeal C - Ref: APP/A0665/W/20/3256504

Tour and Store, Ollershaw Lane, Marston, Northwich, CW9 6ES

- 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 J Yoxall against the decision of Cheshire West & Chester Council.
 - The application Ref 19/03871/FUL, dated 21 October 2019, was refused by notice dated 14 April 2020.
 - The development proposed is new office and workshop building.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is allowed and planning permission is granted for a new office and workshop building at Northwich Metals, Ollershaw Lane, Marston, Northwich, CW9 6ES in accordance with the terms of the application Ref 19/03798/FUL, dated 14 October 2019, subject to the conditions set out in the attached schedule.

Appeal C

3. The appeal is dismissed.

Procedural Matter

4. Pre-commencement conditions are attached to this decision. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to these conditions in writing.

Main Issues

5. The main issues are:
 - (a) Whether the proposals are inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and development plan policy;
 - (b) The effect of the proposals on the openness of the Green Belt;
 - (c) The effect of the proposals on the setting of the Marston Conservation Area;
 - (d) In the case of Appeals A and C, the effect of the proposals on the character and appearance of the countryside; and
 - (e) If the proposals are inappropriate development, 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 developments.

Reasons

Inappropriate development in Green Belt

6. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is the partial or complete redevelopment of previously developed land that would not have a greater impact on the openness of the Green Belt than the existing development. In this regard, it is common ground that all 3 appeal sites comprise previously developed land.
7. With regard to Appeal A, the site consists of land that is currently used for the storage and stacking of scrap, including containers and vehicles. Whilst the storage of scrap clearly effects openness at the site, it is transient in nature and its extent will change over time. Moreover, it is not clear whether the development would lead to this scrap being removed entirely, or whether it would simply be transferred to other parts of this or the adjoining site. Conversely, the proposal would introduce large permanent structures that would be 2 stories in height. These would be clearly visible from public vantage points and would have a significant built footprint and volume. In my view, they would have a greater impact on the openness of the Green Belt than the existing development and would therefore not meet the relevant exception at paragraph 145 g) of the Framework.
8. With regard to Appeal B, the site consists of previously developed land and is therefore capable of being considered under paragraph 145 g) of the Framework. The proposal would involve the demolition of 4 existing structures that have a total footprint of 195 square metres. These would be replaced by a new building with a smaller footprint of around 100 square metres that would visually consolidate built development around the site entrance. Whilst its height would result in a minor overall increase in volume, this would be offset by a more limited visual impact. Accordingly, the proposal would not have a

greater impact on the openness of the Green Belt than the existing development. It would therefore accord with the exception at paragraph 145 g) of the Framework and would not be inappropriate development in the Green Belt.

9. With regard to Appeal C, the proposal would introduce a large 2 storey structure onto land that currently does not contain any buildings. The proposed building would be set back from the access road although it would be clearly visible from along it, and it would be significantly taller than the surrounding caravans and piles of scrap. Whilst the wider site is currently used for caravan storage, that benefits from temporary consent only. In any case, the building would not result in the removal of this use, or any scrap yard use of the site, but would be in addition to it. It would therefore have a greater impact on the openness of the Green Belt than the existing development and so would not meet the exception at paragraph 145 g) of the Framework.
10. I conclude that the proposals under Appeals A and C would be inappropriate development in the Green Belt, which paragraph 143 of the Framework states is harmful by definition and should not be approved except in very special circumstances. They would also be contrary to the relevant sections of Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015) in this regard.
11. Separately, I conclude that the proposal under Appeal B would not be inappropriate development in the Green Belt. It would therefore accord with the relevant sections of Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015), and guidance in the Framework relating to Green Belts.

Openness

12. As set out above, the Appeal A and Appeal C proposals would fail to preserve the openness of the Green Belt. In this regard, the Framework advises at paragraph 133 that openness is an essential characteristic of Green Belts.
13. Separately, the Appeal B proposal would not harm the openness of the Green Belt, for the reasons given above.

Conservation area setting

14. The appeal sites are next to the western boundary of the Marston Conservation Area, which encompasses the former Lion Salt Works, the 19th century core of the village, and surrounding areas of countryside. The area has been shaped by the salt industry, and includes surviving salt works buildings and various features resulting from mining subsidence. The significance of the conservation area stems from its large number of well-preserved buildings and spaces that reflect this historic development of the area. Views of, and noise from, the appeal sites are identified as a 'negative factor' in the Marston (Lion Salt Works) Revised Conservation Area Appraisal. In this regard, the scrap yard use is seen as detracting from the setting to the conservation area, which is mostly surrounded by open countryside.
15. The Appeal A proposal would be visible from countryside immediately to the north, which is within the conservation area. However, these views are currently dominated by the scrap yard, which includes containers and vehicles stacked on top of one another. In contrast, the development would introduce

modern industrial units that would have a more uniform and orderly appearance. They would also provide some screening to the remaining scrap yard in views from the north. Whilst the proposed units would be 2 stories in height, they would not result in any further harm to the setting of the conservation area over and above that associated with the current use.

16. The Appeal B proposal would involve the demolition of a number of smaller structures, and the construction of a single larger building at the entrance to the site. This would be partly screened in views from the south by the existing boundary hedge, and it would otherwise be seen in the context of the scrap yard immediately to the rear. Views of the building from within the conservation area would be limited, and there would be some benefit from the removal of 2 existing structures closest to the site entrance. In my view, the consolidation of built form into a single taller structure would not result in any additional harm to the setting of the conservation area over and above that associated with the current use of the site.
17. With regard to Appeal C, the proposed building would have only limited visibility from within the conservation area itself. It would also be positioned away from the road frontage and would largely be seen in the context of the surrounding hardstanding and open storage. In this context, it would not appear visually intrusive and would not result in any additional harm to the setting of the conservation area beyond the existing use of the site. Moreover, it would be heavily screened in longer views by mature trees and planting.
18. For the above reasons, I conclude that the proposals would not harm the setting of the Marston Conservation Area. They would therefore accord with Policy ENV 5 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015), Policy DM 46 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (2019), and guidance in the Framework relating to designated heritage assets.

Character and appearance of the countryside (Appeals A and C only)

19. Policy STRAT 9 of the Local Plan (Part One) states that 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. It also lists a number of development types that will be permitted within the countryside, none of which apply to the appeal sites. However, this is not a closed list, and it does not necessarily preclude other types of development that are of an appropriate scale and design, and do not harm the character of the countryside.
20. The Appeal A and Appeal C proposals would involve the redevelopment of previously developed land on the edge of an existing settlement. The sites do not have a rural character and are currently in commercial use. With regard to Appeal A, the proposal would result in a more uniform and orderly appearance than the existing scrap yard, and it would help to screen views of the remaining scrap yard area from the north. With regard to Appeal C, the proposal would largely be seen in the context of the surrounding hardstanding and open storage and would not be visually intrusive. Views of the developments from the surrounding countryside would also be limited by the presence of mature trees and planting. Accordingly, neither proposal would harm the intrinsic character and beauty of the countryside, and both would be of an appropriate design and scale given their surrounding context.

21. For the above reasons, I conclude that the Appeal A and Appeal C proposals would not harm the character and appearance of the countryside. They would therefore accord with the relevant sections of Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015), and guidance in the Framework in this regard.

Other considerations (Appeals A and C only)

22. The proposals would not directly offend any of the 5 purposes that Green Belt serves, as set out at paragraph 134 of the Framework. However, that is not uncommon in the case of smaller developments, and it does not alter the fact that the Appeal A and Appeal C proposals would constitute inappropriate development in the Green Belt, and would result in a loss of openness.
23. With regard to Appeal A, it is asserted that there is a shortage of affordable business accommodation in the area which the development would help to address. However, the only evidence that has been provided in support of this contention is a search via a single property website. That may not accurately reflect the availability or affordability of premises in the area, and I therefore attach only limited weight to it. Moreover, I note that the Council has not identified any shortfall in employment land supply in its most recent Annual Monitoring Report.
24. The Covid-19 pandemic will clearly have a significant economic effect both locally and nationally. However, this consideration by itself does not constitute very special circumstances, and indeed, such an approach would serve to undermine Green Belt protections nationally. In any case, it has not been demonstrated in this appeal that there is a local shortage of commercial units of this type and size.
25. The Appeal A proposal would also allow for the operating hours of the proposed units to be controlled by condition, whereas the existing scrap yard is not subject to any such controls. However, there is no evidence before me that the existing scrap yard has led to residential amenity concerns. Moreover, the scrap yard use would remain in situ on land to the south under this proposal.
26. With regard to Appeal C, it is asserted that the proposal is necessary in order for the existing business to grow. However, the caravan storage business only benefits from temporary consent and I therefore cannot assume that it will continue to operate from the site beyond the short term.
27. The proposals would generate some economic benefits during the construction phase, and in the case Appeal A, would provide new business accommodation. However, such benefits are common to most developments of this type and size.

Other Matter

28. The proposals would be relatively modest in scale and would generate only a limited amount of additional traffic. This could be accommodated on the existing access routes and would not lead to severe residual cumulative impacts on the road network. I further note that the Highway Authority has not objected to the proposals on this basis.

Conditions (Appeal B only)

29. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. A condition requiring a scheme of demolition to be submitted and approved is necessary in order to preserve the openness of the Green Belt. A further condition relating to land contamination is necessary given the historic use of the site, the likely installation of new foundations, and the need to ensure that any contamination is remediated to an appropriate standard. These conditions are pre-commencement in nature as all demolition works will be informed by the approved scheme, and any development could disturb contaminants within the site.
30. A condition relating to foundations and servicing is necessary given the land subsidence issues in the area. A further condition relating to drainage is necessary to ensure that surface water is drained appropriately from the site. A condition relating to the proposed parking areas is also necessary to ensure these facilities are available for future users of the development. Finally, a condition relating to the external materials is necessary to preserve the character and appearance of the area.

Conclusions

31. With regard to Appeal B, for the reasons given above I conclude that the appeal should be allowed.
32. With regard to Appeals A and C, the proposals would constitute inappropriate development in the Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. Even when taken together, the other considerations do not clearly outweigh the harm in this case. Consequently, the very special circumstances necessary to justify the developments do not exist. The proposals would therefore be contrary to the relevant sections of Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015), and guidance in the Framework relating to Green Belts.
33. For the reasons given above I conclude that Appeals A and C should be dismissed.

Thomas Hatfield

INSPECTOR

Appeal B - 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: Location Plan; 56/19/BP; 89/19/1; 89/19/2 Front and Side Elevations; 89/19/2 Rear and Side Elevations.

Pre-commencement conditions

- 3) No development shall commence until a scheme of demolition, including a timetable, of the existing buildings to be demolished and the removal of all demolished materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out wholly in accordance with the approved scheme and timetable.
- 4) 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), has 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 30 days of the report being completed and approved in writing by the Local Planning Authority.

Pre-commencement (other than demolition)

- 5) Other than demolition and site clearance, no development shall commence until details of the proposed foundations and underground servicing have been submitted to and approved in writing by the Local Planning Authority. These shall be designed to address any land stability issues. The development shall be carried out wholly in accordance with the approved details.
- 6) Other than demolition and site clearance, no development shall commence until details of a drainage system to serve the site and a method and timetable of implementation have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and timetable.

Other conditions

- 7) The car parking indicated on the approved plans shall be laid out and made available for use prior to the first occupation of the development hereby approved, and shall thereafter be retained.
- 8) No development involving the use of any facing or roofing materials shall take place until details of the materials to be used in the construction of external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.