



Appeal Decision

Site visit made on 9 March 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/A0665/W/20/3264264

J & J Vehicles, Homes Chapel Road, Sproston, Cheshire, England CW4 7LP

- 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 John Goodman against the decision of Cheshire West & Chester Council.
 - The application Ref 20/01645/FUL, dated 4 June 2020, was refused by notice dated 5 October 2020.
 - The development proposed is an application for retrospective planning permission for the substantial rebuild of existing dwelling linked to on site car sales business.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of office / workshop and erection of one dwelling and garage linked to on site car sales business at J&J Vehicles, Homes Chapel Road, Sproston, Cheshire, CW4 7LP in accordance with the terms of application Ref 20/01645/FUL, dated 4 June 2020, subject to the conditions set out in a schedule at the end of this decision.

Procedural Matters

2. The description in the banner heading above is taken from the application form. The description appearing on the Council's Decision Notice and used by the appellant on his appeal form is the 'Demolition of office / workshop and erection of one dwelling and garage linked to on site car sales business – retrospective'. The revised description did not change the development for which planning is sought. Consequently, I am satisfied that no party will be prejudiced by my use of it. I have proceeded on this basis.
3. At the time of my site inspection the development of a dwelling on the site as shown on the appeal plans was substantially complete and a proposed domestic garage had also been commenced. For the avoidance of doubt, this appeal is determined on the basis of the plans as submitted with the planning application.

Main Issues

4. The main issues are:
 - Whether or not the site lies in a suitable location for new residential development
 - If there is conflict with the development plan whether there are other material considerations that indicate a decision otherwise than in accordance with it

Reasons

Locations for housing

5. The site lies in an area designated as countryside in the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (LP1). The Council's main policies for the spatial distribution of new housing development seek to direct development to locations with good accessibility to services and public transport. In countryside areas development is limited to that requiring a countryside location which cannot be accommodated within identified settlements.
6. Policy DM19 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (LP2) provides detail of the conditions when new housing in countryside areas would be supported. In the face of a healthy housing land supply and delivery exceeding the annual requirement, the circumstances for new housing are limited to 7 specified circumstances.
7. The list includes the change of use or conversion of a building. According to the appellant, the dwelling retains the floor slab and foundations of the former building and some walls which now form the corner of the kitchen and a back bedroom. He concedes that some walls shown for retention on a former planning approval for the conversion of the building were replaced on account of their structural stability. On the evidence before me, the degree of necessary re-build would render what remained of the building incapable of serving as a dwelling. Accordingly, I conclude that the development that has taken place is substantially new-build rather than merely a change of use or conversion.
8. Of the remaining specified circumstances in Policy DM19 the appellant directs me to the fact that there is some allowance provided for the redevelopment or replacement of buildings on previously developed land. This includes instances where the land is identified on the Council's Brownfield Land Register or where a replacement building would lie in a location close to public transport links and walking distance of local services and, amongst other things, would reflect the rural character of the area and does not 'urbanise' the countryside.
9. There is no dispute between the main parties the site would meet the definition of previously developed land as stated in the National Planning Policy Framework (the Framework). However, there is little evidence to demonstrate that it is on the Council's Register. Furthermore, there is no dispute between the main parties that the site offers limited access to community and employment facilities.
10. Access to public transport lies within 400m, however this is limited to an hourly service. Aside from a public house close to the bus stop other facilities to serve day-to-day living needs are substantially more distant. Moreover, even walking to the local bus stop would require the use of an often narrow and poorly maintained footway adjacent to the A54. Due to the busyness of the road, road speed, frequent use by large HGVs and its relatively limited carriageway width, use of much of the pavement could not be described as 'safe' within the vicinity of the site. Similarly, the highway conditions would not encourage cycling for all but the most experienced of cyclists. Accordingly, the residential occupation of the site would be substantially reliant on the use of private motor vehicle. This would conflict with the policy aims of enhancing accessibility and reducing the need to travel to mitigate the effects of climate change.

11. Rural needs housing is also referenced within Policy DM19 and by the appellant. Whilst I have no doubt that some benefits would accrue from the location of the dwelling immediately adjacent to the prospective occupier's place of work, there is little evidence before me to indicate any essential operational need arising from the business. Of the other exceptions referred to in Paragraphs 77-79 of the Framework, there is little evidence to suggest the proposal qualifies under any of those provisions.
12. For the above reasons, I find that the development of a new house on the site would be located where accessibility to facilities and services is poor such that it would be dependent on the use of private motor vehicles for day-to-day living. It would conflict with Policies STRAT8 and STRAT9 of the LP1 and Policy DM19 of the LP2 which, amongst other things, seek to concentrate new development to settlement areas and the most accessible and sustainable locations to maintain vibrant rural communities.

Other Matters

13. The site has recently benefitted from a number of planning permissions including proposals to change the use of the site to a mixed use comprising a car lot and residential accommodation. This was to be achieved by way of conversion of a former building in the location of the new dwelling.
14. Despite the fact that some of those permissions involved works other than the conversion of the building, there is little evidence before me to indicate that any permissions remain extant. Nevertheless, it is clear that there would be little between the circumstances of previously approved development and that for which planning permission is sought.
15. Any harm arising from the necessity to travel for day-to-day living needs would be similar to that associated with the previously accepted principle of residential development on the site. Equally, some travel needs would be reduced by 'home working'. The scale and outward appearance of the building and any associated degree of domestication of the site are also comparable to the effects of the previously approved schemes. Overall, this results in similar effect on the character of development on the site and thereby protects the intrinsic character and beauty of the countryside in a manner similar to previously approved development.
16. Although some of the environmental benefits arising from the re-use of a greater amount of the original building will not have materialised, this benefit would be limited given that the converted building would have included some rebuilding of walls, infilling of former large openings, a new roof and new external skin of brickwork. In effect the benefits would be limited to some internal walls within a new outer building envelope and the retention of the foundation slab, which has been incorporated.
17. When weighed against the identified benefit of removal of the large forecourt canopy to facilitate the residential use, and the response to design preferences made by the Parish Council to provide enhancements to the character and appearance of the site, I find there is little between the proposal and the previously accepted scheme. Furthermore, those benefits would align with the previously considered schemes as they relate to the effect on nearby buildings of local historic interest. Although the external materials of the building are different to those used on the nearby historic buildings, they are not dissimilar

to those used in more modern buildings and extensions found in the locality. As such they do not appear incongruous against the mixed palette of materials in the area.

18. I acknowledge that some of the previous planning permissions were subject to a requirement to submit details of a ground contamination assessment and any attendant remediation measures required in order to ensure the safety of development. A report previously commissioned for the site included recommendations for building safety measures in addition to the treatment of the surrounding ground. Notwithstanding the retained floor slab of the former building and evidence of the safe disposal of fuel tanks previously on the site, I find further requirements to ensure safe use of the site are necessary. These are matters that can be dealt with through appropriate planning condition/s.

Conditions

19. I have considered the suggested conditions from the Council and had regard to Paragraph 55 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. Several of the conditions relate to restriction on commercial operations taking place elsewhere on the site. Although the dwelling is described as being related to the existing car sales business it does not affect the status of the commercial enterprise or justify further restriction to it. I note that previous permissions including a workshop impose such restrictions. As those conditions would not be necessary or relevant to the development proposed, they are not repeated here.
20. A condition specifying the relevant drawings is necessary as this provides certainty. In the interests of providing suitable parking arrangements and encouraging use of non-fossil fuel vehicles, conditions in relation to parking layout and vehicle charging points are necessary.
21. To ensure the safety of prospective occupiers of the site, conditions requiring assessment of the development site in relation to potential previous contamination and any necessary remediation are also necessary.

Planning Balance and Conclusion

22. For the above reasons, I find that the development would conflict with the requirements of the development plan in relation to sustainable locations for development. However, in the particular circumstances of the case, the proposal would result in a development almost the same as previously approved schemes on the site. Although, these would be identical in terms of accessibility to services and public transport, some comparative harm would arise to the environmental benefit of re-using greater amounts of the fabric of the former building. However, this harm would be limited in the context of previously approved building works and offset by the benefits of the removal of the large canopy to facilitate residential use on the site.
23. For the above reasons, the appeal should be allowed.

R Hitchcock

INSPECTOR

Schedule of Conditions to planning permission ref. 20/01645/FUL

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan G41.01.20, Amended Block Plan G41.02.20 Rev B, Proposed Plans and Sections G41.03.20 Rev A and Proposed Elevations G41.04.20 Rev B.
- 2) Before the dwelling hereby approved is first occupied it shall be provided with electric car charging infrastructure comprising, as a minimum, one dedicated 32 amp radial circuit which is directly wired to an appropriate RCD at the consumer unit. The circuit shall terminate at a three-pin socket or BS EN 62196 Type 2 electric vehicle charging point located where it is accessible from a dedicated off-street car parking bay.
- 3) The parking spaces as shown on plan reference G41.02.20 Rev B shall be laid out and available for use prior to occupation of the dwelling. The approved spaces shall be retained at all times thereafter.
- 4) No occupation of the dwelling hereby approved shall take until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before first occupation after the date of this decision. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in complete accordance with the approved measures before first occupation after the date of this decision.
- 5) Following completion of measures identified in the remediation scheme approved in relation to Condition 4 above, a validation or verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority prior to occupation of the dwelling after the date of this decision.

END.