



Appeal Decision

Site Visit made on 9 March 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 9th April 2021

Appeal Ref: APP/A0665/W/20/3263969

Levens Farm, Parkgate Road, Saughall, Chester CH1 6JS

- 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 G Barrett against the decision of Cheshire West and Chester Council.
 - The application Ref 20/00656/FUL, dated 17 February 2020, was refused by notice dated 28 August 2020.
 - The development proposed is Construction of two dwellings on the site of former boarding kennels.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:
 - i) 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;
 - ii) Whether the location is suitable for new residential development, having regard to local and national policies for the supply of housing;
 - iii) The effects of the proposal on biodiversity, with particular regard to protected species; and
 - iv) If the scheme is 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 it.

Reasons

Whether inappropriate development in the Green Belt

3. The appeal site is to the rear of the appeal property and it comprises hardstanding, the remains of former kennel buildings and a small intact building. It is accessed via Parkgate Road close to its junction with the A494 and the A5117. It is in the countryside and the North Cheshire Green Belt.
4. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies Adopted January 2015 (the LP1) sets out that in the Green Belt, development will be restricted in line with the Framework. Paragraph 145 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of specific exceptions, the relevant one to this case being 145 g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
6. The appeal site was in use as a boarding kennels from 1988 until December 2018. Therefore, the proposal would be the redevelopment of PDL. Turning to the effect on openness, the Framework states that the essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development and it includes both spatial and visual aspects.
7. The evidence indicates that the PDL, including the footprint of former buildings, dog runs and yard areas, covers an area of just under 900sqm. In contrast, the proposed dwellings and garages would have a footprint of 171sqm. It is not clear that the calculation includes associated driveways and parking areas or pathways and paved areas around the dwellings. Nevertheless, there would be a significant reduction in the permanent spatial footprint of development.
8. In terms of the visual aspect of openness, the previous use of the site ceased over 2 years ago, the former buildings have been largely demolished and the site is vacant. The remaining building and the partial walls of former buildings are low and modest structures. Consequently, there would be a noticeable visual change from the introduction of 2 residential dwellings, garages, the parking of cars and associated domestic paraphernalia. There would be a significant increase in activity, comings and goings, and artificial illumination, all of which would contribute to cumulative visual impacts in this location. Notwithstanding large commercial buildings on neighbouring land, by virtue of wide separation and siting to the rear of the appeal property, the dwellings would appear to encroach into the countryside when viewed from the surrounding area including the footway along the road.
9. I accept that the proposed buildings may have a smaller volume than the former buildings at this site. However, Paragraph 145 g) of the Framework sets out that the redevelopment of PDL will only be not inappropriate development if it does not have a greater impact on openness than the existing development. In this regard, the buildings that have been demolished no longer exist. Therefore, while they were historic development at the site, they are not part of the existing development for the purposes of the assessment.
10. Irrespective of the reduction in the spatial footprint of development, there would be a significant visual impact by virtue of the dwellings and associated residential activity in the countryside. Although the appeal site is PDL, the proposal would have a greater impact on the openness of the Green Belt than the existing development.
11. Therefore, the proposal would be inappropriate development in the Green Belt as it would not meet the exceptions for the construction of new buildings set out in the Framework. It would conflict with Policy STRAT9 of the LP1 and Policy DM19 of Cheshire West and Chester Council Local Plan (Part Two) Land

Allocations and Detailed Policies Adopted July 2019 (the LP2) and the policies in the Framework that protect the Green Belt.

The suitability of the location for new residential development

12. Policies STRAT1 and STRAT2 of the LP1 sets out the Council's locational strategy which, in accordance with the hierarchy of settlements, seeks to focus development in accessible locations that are better served by facilities and services. Proposals outside of settlements, in the countryside and in the Green Belt, fall to consideration under Policy STRAT9 of the LP1 and other relevant development plan policies including Policy DM19 of the LP2.
13. In this regard, Policy STRAT9 sets out that within the countryside, development will be restricted to that which requires a countryside location and cannot be accommodated within identified settlements. Policy DM19 further sets out exceptions to residential development in the countryside including the replacement of buildings on PDL and where the site is accessible by public transport and within a reasonable walking distance of local services and facilities along a safe route.
14. The appeal site is in the countryside and it is not in or particularly near to a settlement. The proposal would be market housing, which is a type of dwelling that does not require a countryside location. The appeal site is PDL but the proposal would not be the replacement of the former kennel buildings.
15. There is a garage with a small convenience store, coffee shop and sandwich shop at the nearby junction of the A540 Parkgate Road and the A494 Bypass Road. This is on the same side of the road as the appeal site and within easy walking distance along a footway. There is also a pet store on the opposite side of the road. The proposal would not be remote from shops, but these appear limited and unlikely to provide the range of services and facilities necessary to meet the reasonable daily needs of future occupiers. The location would not minimise the need to travel and future occupiers would need to travel at least as far as the local service centre of Saughall, some 1.5-2km away.
16. There are footways and street lighting along the roads between the site and Saughall, but the distance is greater than would be a short or convenient walk. Even during the national coronavirus pandemic lockdown, Parkgate Road was a busy and fast stretch of road. Therefore, while the site is within easy cycling distance of Saughall, the speed and volume of traffic might well deter regular cycle trips by all but the most experienced cyclists. There is a bus stop close to the highway access offering services to Saughall and more distant settlements including Chester. Therefore, the site is accessible to a degree by sustainable forms of transport and there would be some alternatives to private car journeys in this location.
17. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas but even so, to contribute to sustainable development, rural housing is expected to be located where it will enhance or maintain the vitality of rural communities. Irrespective of the accessibility of the garage shops and bus stop, future occupiers would be heavily reliant on private car journeys. Moreover, by virtue of separation from even a small rural settlement, future occupiers would be isolated from the local rural community.

18. Permission (ref 18/02014/FUL) for the construction of 4 No. storage/workshop units was previously granted at this site. At that time, the Council accepted that the site was accessible by public transport and it was within walking distance of the nearby garage shops. Full details are not before me, but it was apparently considered before the LP2 was adopted and it relates to a continuing commercial use. The permission has not been implemented due to perceived lack of demand for commercial units in this location. Nevertheless, it seems likely that the pattern of activity and the requirements of business employees would be different to those of residential occupiers. There is little compelling evidence that the acceptability of the one justifies the other.
19. My attention has been drawn to permission (ref 14/04966/FUL) for 191 homes on the outskirts of Ellesmere Port, where at least some dwellings would be further than the appeal site from shops and services and public transport. Full details of that scheme have not been provided, but it is not comparable to the appeal scheme in terms of its size or location and it seems reasonably likely that it would deliver very different economic, social and environmental benefits.
20. The proposal would not be the creation of isolated homes in the countryside. However, taking account of the limited local shops and services and the relative isolation from the local community, the location is in conflict with the Council's sustainability and rural housing aims. The proposal would conflict with Policies STRAT1, STRAT2 and STRAT9 of the LP1 and Policy DM19 of the LP2. These require, among other things, that residential development is focused towards larger settlements where it would support the local economy, minimise the need to travel by car and be accessible by a range of transport modes. In the countryside and the Green Belt, new housing should be avoided unless there is a local rural need for housing. It would also conflict with the rural aims of the Framework which, among other things, promotes development in accessible locations and that meets local needs.

Biodiversity

21. The appeal site is to the rear of the appeal property in an area of countryside characterised by intensive agricultural land with boundary hedgerows. The extensive hard standing is of low biodiversity value and the majority of buildings have been demolished. At the time of my visit the one remaining single storey building appeared to be in a reasonable state of repair.
22. Natural England's standing advice (bats) for local planning authorities confirms that bats can be affected by demolition, and surveys will be required if the area includes buildings or other structures that bats tend to use. Features of buildings that increase the likelihood of bats being present include cracks or crevices, a roof warmed by the sun, and uneven roof covering with gaps.
23. The Planning Practice Guidance advises that where proposals are likely to affect a protected species, permission can only be granted if an appropriate survey has been carried out and subject to any necessary proposals for mitigation or compensation being found acceptable.
24. The application was not supported by the results of a protected species survey or building inspection. No substantive evidence has been provided with the appeal in this regard to establish the suitability of the building for roosting bats. The appellant considers that the former dog kennel use of the site would result in a low likelihood of bats or nesting birds being present. However, even

if the former use had not ceased, I am not aware that the presence of dogs would deter roosting bats.

25. While I consider that avoidance of impacts on nesting birds could be addressed by a suitably worded planning condition, the appellant has not adequately addressed the reason for refusal in relation to bats. There appears to be no justification as to why permission should be granted when the proposal fails to demonstrate that the requirements of relevant legislation and policy would be met.
26. Therefore, there is insufficient information to assess the effect of the proposal on protected species, with particular reference to bats. Consequently, the proposal would conflict with the biodiversity and protected species aims of Policy ENV4 of the LP1 and the policies in the Framework.

Other Considerations

27. My attention has been drawn to a planning permission for 2 dwellings on a former kennels site in nearby Willaston in the Green Belt. On the basis of the evidence before me, that scheme was assessed against the policies that protect the Green Belt and the Council concluded that the proposal would not have a materially greater impact on openness. The schemes are similar insofar as they both relate to boarding kennels in the Green Belt, but they differ including in terms of the characteristics of the site and the surrounding context. Each case must be considered on its own merits and the acceptability of different schemes elsewhere does not provide a justification for the appeal scheme.
28. I have considered whether the planning permission for storage/ workshop use is a fall-back position at this site. Full details of that scheme have not been provided, although presumably it was considered to be not inappropriate development in the Green Belt. The permission has not been implemented and there is little before me to suggest that it would be implemented if the appeal should fail. In any case, no plans have been provided to allow any comparison between it and the appeal scheme. Therefore, the approved commercial use carries little weight in favour of the scheme.
29. I accept that the Council had initially agreed with the appellant that an argument could perhaps be made that the location is relatively sustainable given the conclusions in the previous delegated report. However, it stated that it would need to consider the matter further. While the refusal on grounds relating to the suitability of the location will have been a disappointment, the correspondence during the processing of the application carries limited weight.
30. The Council can demonstrate a 5 year supply of deliverable housing land. Two dwellings would make a minimal contribution to the supply of housing. The proposal would make a limited contribution to the local economy in the short term during construction. The occupation of 2 dwellings would make a minimal contribution to the local economy and the rural community. Accordingly, these matters carry limited weight in favour of the scheme. Avoidance of harm in respect of matters such as highways, and compliance with some policies in the development plan and the Framework, are neutral factors in the balance.

The Green Belt Balance

31. I have concluded that the proposed development would be inappropriate development in the Green Belt. It would result in a small loss of openness of

the Green Belt. These matters attract substantial weight. Furthermore, the conflict with the Council's sustainability and rural housing policies is a matter that weighs against the proposal to a moderate degree. The failure to demonstrate avoidance of harm to protected species weighs against the scheme.

32. There are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and other harm. Therefore, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

33. For the reasons set out above, and having regard to all other matters raised, the appeal should be dismissed.

Sarah Manchester

INSPECTOR