The Planning Inspectorate

Appeal Decision

Site Visit made on 11 May 2021

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2021

Appeal Ref: APP/A0665/W/21/3268105
Brownhayes Farm, Yatehouse Lane, Byley, Northwich CW10 9NS

- 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 Mt J Pugh of JP Projects (NW) Ltd against the decision of Cheshire West and Chester Council.
- The application Ref 20/00161/FUL, dated 14 January 2020, was refused by notice dated 10 January 2021.
- The development proposed is the demolition of existing workshop, removal of plant, equipment and areas of hard standing. Construction of 2 detached dwellings.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing workshop, removal of plant, equipment and areas of hard standing and construction of 2 detached dwellings at Brownhayes Farm, Yatehouse Lane, Byley, Northwich CW10 9NS in accordance with the terms of the application, Ref 20/00161/FUL, dated 14 January 2020, subject to conditions as set out in the attached schedule.

Main Issues

2. The main issues are:

- whether or not the development proposed represents a suitable location for housing having regard to the settlement strategy and access to public transport, and local services and facilities; and,

- the effect of the proposal on the character and appearance of the countryside.

Reasons

3. The appeal site is located in a rural context to the north east of a small group of dwellings accessed by a rough track from Yatehouse Lane. It lies approximately two or three kilometres from the nearest settlements of Byley and Middlewich respectively. By virtue of their limited scale and the availability of services and facilities, neither of those settlements are identified as locations to which development is principally directed in either policy STRAT 2 of the Local Plan Part 1 (adopted 2015, the 'LP1') or policy R1 of the Local Plan Part 2 (adopted 2019, 'LP2'). There is no dispute that, within policy terms, the appeal site falls within the countryside, where LP1 policy STRAT 9 and LP2 policy DM 19 apply.

4. Consistent with the approach in paragraph 102 of the National Planning Policy Framework ('the Framework'), in summary the foregoing policies seek to focus development principally in accessible locations where sustainable modes of transport are readily available. I saw that accessing either Byley or Middlewich

on foot is not a welcoming prospect: the route to either is along the lengthy site access track and via rural roads subject to the national speed limit, generally without dedicated footways or lighting. There is furthermore no evidence that Byley benefits from public transport services.

5. As such occupants of the proposed dwellings would be highly reliant on private modes of transport, with resultant implications for emissions, in conflict with the general approach advocated by the policies set out above. I also note that, whilst LP1 policy STRAT 9 is supportive in principle of the redevelopment of previously developed land, that is conditional on it being situated in an accessible location in line with LP2 policy DM 19, criteria i. and ii. There is no dispute that the site may accurately be termed as brownfield land, although the site is not included in the Council's brownfield register.

6. Nevertheless, there are specific circumstances here which lead me to the view that, in terms of accessibility, the development proposed would not be unacceptable. As confirmed via a Certificate of Lawful Use in 2015 (Ref. 15/04612/LDC) the authorised use of the site is as an agricultural contracting business. I understand that the existing building was used for fabrication and welding as part of that concern, with outside space around being used as workspace and for open storage of plant and materials. On the basis of the information before me, vehicular movements associated with that use are likely to have been comparable to that which would arise from two dwellings.

7. In that context I note the observations made by the Highway Authority that such a use has the potential to generate HGV movements that entail the potential for significant emissions, beyond those typically associated with domestic vehicles. Consequently, insofar as accessibility and vehicular emissions are concerned, notwithstanding the provisions of the policies referenced in paragraph 5 above, I conclude that unacceptable effects would not arise. Given the particular history to the site I am not of the view that allowing the appeal for two dwellings would 'undermine the strategic aims of the local plan' in terms of the location of housing as the Council contend.

Character and appearance of the countryside

8. The appeal site is located within a group of buildings comprising of a former farmhouse and the associated traditional farm buildings which have recently been either converted or rebuilt. The site is bounded by a mix of high hedging and fencing accompanied by trees growing close to the boundaries. The site is surrounded by open countryside that mainly consists of open pasture interspersed with small groups of trees and larger areas of woodland. Due to its position at the end of the long access track, the appeal site is a significant distance from the closest public road at Yatehouse Lane and the bridleway to the west. Due to these distances, and the wooded surroundings, I saw that the appeal site is not prominent in the landscape. Any public views of the appeal site, if they are possible, are likely to be highly limited and fleeting. Moreover, I note that the surrounding countryside does not have any formal landscape protection.

9. The existing metal sheeted building has a utilitarian design that is not reflective of the adjacent converted traditional farm buildings. It is tall and would appear, in my view, to be comparable to the height of a two-storey building. It is in need of repair with several missing metal sheets and does not appear to have been maintained for some time. For these reasons the existing building does

not contribute to the rural character of the area and detracts to some extent from the character and appearance of the site. As such, whilst the site is not prominent in public views, the removal of the building would lead to some level of improvement in the appearance of the site and the immediate surroundings.

10. The proposed dwellings would be sited roughly parallel with one another and set back further into the site than the existing building. Both dwellings would incorporate a mix of brickwork and timber cladding to the exterior with zinc profile sheeting to the roof and large areas of glazing mimicking large openings found on agricultural buildings. Whilst there are certain differences with the surrounding buildings, those are relatively minor, and in my view the design and materials of the proposed dwellings would be appropriate and reflective of the adjacent buildings and rural buildings in general.

11. The Council has raised concerns over the scale of the development and notes the differences in floor area between the proposal and the existing building. However as reasoned in paragraph 12 of this decision, the existing building is tall and in a poor state of repair, and the existing lawful use encompasses outside storage, which, on the basis of the appellant's evidence, included the storage of skips and other large objects.

12. The proposed dwellings would include single storey lean to elements which would help to lessen the overall bulk of massing of the buildings. Furthermore, as a result of their siting more centrally within the site, they would integrate appropriately with the existing buildings. Moreover, due to the comparatively large area of the appeal site, the dwellings would be sited within generously sized gardens which would give a spacious feel to the development, whilst still representing a reasonably efficient use of the site. Taking into account the lack of public views of the appeal site as is reasoned in paragraph 11, the lawful use of the site, and in the light of the foregoing reasoning, I am of the view that the scale of the dwellings would not appear excessive or inappropriate in this context, and that the proposal would enhance the site and the rural setting.

13. For the above reasons I conclude that the proposal would not be harmful to the character and appearance of the countryside and would comply with policies ENV 6 of LP1, and DM 3 and DM 19 of LP2 which seek to ensure high quality design and preserve the character and appearance of the countryside.

Other Matters

14. I have had regard to the comments from the owner of the adjoining land who commented on the planning application. However, I would note that an appellant does not have to own a site, or the whole of a site, in order to seek planning permission. Whilst the comments raise concern over access rights, I note that land ownership is a private legal matter, and therefore a separate matter to the acceptability of a scheme in planning terms.

Conditions

15. I have considered the conditions suggested by the Council in the light of the tests and advice within the Framework and the Planning Practice Guidance. Conditions are necessary in respect of commencement time and relating the development to the submitted plans. Details of external materials and more detail with regard to landscaping are required in the interests of providing certainty, ensuring the dwellings are well related to the adjacent buildings and

to the character and appearance of the area. I have had regard to the Council's suggested condition relating to the boundary treatments, however these details are clearly shown on drawing 2553-114 and are therefore covered by condition 2. I have also imposed a condition restricting the hours during which development works can take place in the interests of the living conditions of the occupants of the neighbouring dwellings.

16. I am statutorily required to have regard to conserving biodiversity, and paragraph 170. d) of the Framework sets out how decisions should seek to minimise impacts in that regard. It is therefore necessary and reasonable to impose condition 4 requiring compliance with mitigation measures in the protected species report, and condition 5 to avoid disturbance arising from construction to nesting birds.

17. A condition is necessary to ensure that the parking and turning areas for the development are provided and retained in the interests of highway safety. In line with LP1 Policy STRAT 10 and with regard to paragraphs 105 and 108 of the Framework, it is further necessary to impose a condition requiring that electric vehicle charging point provision is made.

18. Notwithstanding the provisions of the Building Regulations 2010 as amended in respect of wastewater, in line with the drainage hierarchy in the Planning Practice Guidance ('PPG'), it is nonetheless appropriate to require details of the proposed sustainable drainage via condition 9. Furthermore, in line with policy DM 4 of LP2 and the guidance in relation to optional technical standards contained within the PPG (Paragraph: 002 Reference ID: 56-002-20160519), I have imposed a condition requiring submission of details to ensure the dwellings meet the higher National Housing Standard for water consumption as set out in the Building Regulations 2010 as amended.

19. Given the unique design characteristics of the buildings proposed and their position in a group of buildings with an agricultural character, even relatively minor alterations to the dwellings proposed may adversely affect their character within this group. It is therefore justifiable, in this instance, with regard to the guidance contained within the PPG, to remove permitted development rights for extensions, alterations and roof additions. Nonetheless, controlling outbuildings is unnecessary as there are adequate provisions within the Town and Country Planning (General Permitted Development) (England) Order 2015 which would prevent outbuildings being constructed forward of the principal elevation of the dwellings.

Conclusion

20. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Paul Martinson

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: 2553-100, 2553-101, 2553-102, 2553-103, 2553-104, 2553-105, 2553-106, 2553-107, 2553-108, 2553-114.

3) Other than in respect of site preparation and groundworks, no development hereby permitted shall commence until samples or details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples or details, which shall thereafter be retained.

4) The development hereby permitted shall be carried out in accordance with the approach set out in Appendix 2: Great Crested Newt Reasonable Avoidance Measures of the Tyrer Ecological Consultants Ltd Report, dated 19 March 2019.

5) Before any demolition, vegetation clearance or groundworks takes place between the bird breeding season of 1 March to 31 August in any year, a survey prepared by an appropriately qualified individual shall have been undertaken to check for nesting birds. Where any active nests are found details of a mitigation scheme shall be submitted to and approved in writing by the local planning authority prior to works affecting that area commencing. The works shall then be carried out in accordance with the approved mitigation scheme.

6) The development hereby permitted shall not be first occupied until a landscaping scheme has been implemented, as previously submitted to and agreed in writing by the local planning authority. The scheme shall include:

   i) a planting plan noting species, plant supply sizes and proposed numbers

   ii) details of any external hardsurfacing proposed. Once installed, the approved hardsurfacing shall be retained thereafter.

   Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

7) No dwelling hereby permitted shall be occupied until space has been laid out within the site, in accordance with details that have been submitted to and agreed in writing by the local planning authority, for vehicles to be parked and to turn so that they may enter and leave the site in forward gear. That space shall thereafter be kept available at all times for those purposes.

8) Before any of the dwellings hereby permitted is first occupied, at least a single electric vehicle charging point per dwelling shall have been provided comprising of, at least, a 32 amp radial circuit which is directly

wired to an appropriate residual current device (RCD) at the consumer unit. The circuit shall terminate at a three-pin socket or BS EN 62196 Type 2 electric vehicle charging point where it is accessible from a dedicated off-street car parking bay. Once provided all charging points shall thereafter be retained.

9) No dwelling hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (currently March 2015, or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development (which shall, as necessary, include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime).

10) Before any of the dwellings hereby permitted is first occupied, details of how each dwelling would meet the higher National Housing Standard for water consumption of 110 litres per person per day shall be submitted to and approved in writing by the local planning authority. The approved measures shall be installed in each dwelling, prior to its first occupation and thereafter retained.

11) Demolition or construction works shall take place only between 0800 hours to 1800 hours on Mondays to Fridays, and 0800 hours to 1300 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), none of the development described within the following Classes shall be undertaken in respect of the dwellings hereby permitted: Class A, enlargement, improvement or other alteration of a dwellinghouse; Class B, additions etc. to the roof of a dwellinghouse; Class C, other alterations to the roof of a dwellinghouse; Class D, porches.