
Appeal Decision

Site visit made on 25 May 2021

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2021

Appeal Ref: APP/A0665/W/21/3269501

Woodlands, Smithy Lane, Mouldsworth, Chester CH3 8AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Dr Stephen Judd against the decision of Cheshire West & Chester Council.
 - The application Ref 20/00889/OUT, dated 4 March 2020, was refused by notice dated 27 August 2020.
 - The development proposed is the development of one dwelling within the curtilage of a residential property.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application is made in outline with all matters reserved except for access. A site plan and several other drawings were submitted with the application. I have regarded all elements of those drawings as indicative apart from the details of the proposed access to the site.

Main Issues

3. The main issues 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;
 - the effect on the openness of the Green Belt;
 - whether the site would be a suitable location for housing, having regard to relevant local and national planning policy;
 - whether the harm by reason of inappropriateness and any other harm, would clearly be outweighed by other considerations and, if so, whether this would amount to the very special circumstances necessary to justify the proposal.

Reasons

Background

4. The appeal relates to part of the side garden of a detached dwelling on Smithy Lane in Mouldsworth, within the Green Belt. A single dwelling is proposed on the site.

Whether the proposal would be inappropriate development in the Green Belt

5. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate development in the Green Belt, with exceptions which include limited infilling in villages (bullet point e).
6. Policy STRAT 9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (the Local Plan Part One) specifies the types of development that will be permitted in the countryside and states that, within the Green Belt, additional restrictions will apply to development in line with the Framework. Policy DM 19 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the Local Plan Part Two) states that proposals for land in the Green Belt must accord with Green Belt policy as set out in the Framework. Accordingly, in considering whether the proposal would be inappropriate development in the Green Belt, I have based my assessment on the criteria in Paragraph 145 of the Framework.
7. Mouldsworth is not identified as a key or local service centre in the Local Plan. However, as well as built development along Smithy Lane in the vicinity of the site and further groups of dwellings along Station Road, Chapel Lane and Stable Lane, Mouldsworth also has facilities including a railway station, public house and bowling green. Having regard to those facilities and the housing development along its road frontages, I am satisfied that Mouldsworth is a village for the purposes of paragraph 145e).
8. The supporting text to Policy STRAT 8 of the Local Plan Part One¹ defines infill as 'the filling of a small gap, up to two dwellings, in an otherwise built up frontage in a recognised settlement'. Paragraph 145e) of the Framework does not restrict infilling solely to recognised settlements. The more restrictive approach set out in the Local Plan definition is therefore inconsistent with it and I afford limited weight to the reference therein to recognised settlements. However, in all other respects and in the absence of a definition of infill in the Framework, I find the Local Plan definition reasonable and I have considered the appeal on that basis.
9. There is a relatively long, continuous row of semi-detached and detached houses and cottages on the northern side of Smithy Lane to the west of the site. Although those houses are separated from one another by drives and areas of garden, the gaps between them are of relatively limited width, such that they appear as a continuous frontage of built development. However, to the east the site is adjoined by the very long side/rear garden of Mouldsworth House.
10. Together, the site and that long neighbouring garden form a very wide gap between the house at Woodlands to the west and that at Mouldsworth House to the east. The width of the gap cannot be said to be small. It is so wide that, whilst Mouldsworth House has a frontage onto Smithy Lane, it is not viewed or read as part of the continuous frontage of housing to the west of the site. Rather, it appears as a separate feature, visibly detached and distinct from Woodlands and the housing beyond it. Furthermore, whilst the proposed dwelling would be adjacent to the existing house at Woodlands, a wide gap would still remain between it and the building at Mouldsworth House in the other direction.

¹ Local Plan Part One paragraph 5.66

11. Therefore, whilst the development would only comprise a single dwelling, the gap in which it would take place would not be small and is not within an otherwise built up frontage, given the separation distance to Mouldsworth House to the east. Nor would the proposed development fill that gap which exists. Taking all of those factors together, although the site is in a village, I conclude that the development would not constitute limited infilling. Therefore, it would not meet the exception criteria in paragraph 145e) of the Framework.

Openness of the Green Belt

12. In considering the effect of the proposed development on the openness of the Green Belt I have had regard to its impacts on spatial and visual openness.
13. Although the application is in outline and the submitted drawings are indicative, the development of a dwelling on the site would result in the introduction of built form into an area of land which is currently absent of such development. It would thus erode the spatial openness of the Green Belt. Despite the presence of a high front boundary hedge and indicative proposals for new landscaping, the development would be visible from Smithy Lane through the site entrance and from neighbouring properties to either side. Furthermore, there is no guarantee that the hedge would remain at that height in the future. Therefore, a dwelling on the site would also erode the visual openness of the Green Belt.
14. The harm to openness arising from the relatively small scale development proposed would be moderate. Nonetheless, the Framework requires that substantial weight is given to that harm to the Green Belt.

Whether the site would be a suitable location for housing

15. Local Plan Part One Policies STRAT 1 and STRAT 2 set out the Council's strategic approach to the location of new development based on its settlement hierarchy, which aims to locate new housing with good accessibility to services, facilities and public transport and to direct most new development to larger existing settlements. The Council's strategy also provides for some new development in key service centres, named in Policy STRAT 2 and identified as being the most sustainable rural locations, and in smaller local service centres which have adequate services and facilities and access to public transport. Those local service centres are named in Policy R 1 of the Local Plan Part Two.
16. The Council's strategy as set out in those Local Plan policies is consistent with paragraph 78 of the Framework, which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. I therefore afford the Council's development strategy as set out in those Local Plan policies substantial weight.
17. Mouldsworth is not named as a key service centre in Policy STRAT 2 or as a local service centre in Policy R 1. Therefore, as set out in the supporting text to Policy STRAT 9 of the Local Plan Part One², it is within the countryside and subject to the requirements of Policy STRAT 9.

² Local Plan Part One paragraph 5.73

18. Policy STRAT 9 restricts development in the countryside except in a number of specified circumstances, none of which apply to the development proposed in this case. Mouldsworth has a railway station and some other facilities. There are further facilities in nearby villages, including Ashton Hayes which is defined as a local service centre in Policy R 1. However, Mouldsworth is a separate settlement which has not been identified or named as a key or local service centre in the Local Plan and which is therefore within the countryside. As such, the construction of a new dwelling in this location would conflict with the Council's development strategy.
19. The development would provide a new dwelling, which would contribute to local housing supply. Occupants of the dwelling would likely use and provide some support to existing facilities in Mouldsworth and nearby settlements. However, the benefits arising in those regards from the single dwelling proposed would be relatively modest. The Council has a clear strategic approach to the siting of new development via its Local Plan. I have not been presented with substantive evidence to indicate that the Council is unable to demonstrate a 5 year supply of deliverable housing land or that its adopted strategy is failing to deliver new housing or to support the district's existing settlements and rural communities. In that context, the modest benefits that would arise from the single dwelling proposed carry limited weight and do not justify setting aside the Council's adopted development plan strategy.
20. Therefore, I conclude that the proposed development would not be a suitable location for housing having regard to relevant local and national planning policy, including the requirements of Policies STRAT 1, STRAT 2, and STRAT 9 of the Local Plan Part One, Policy DM 19 of the Local Plan Part Two and those of the Framework as set out above.

Other considerations

21. As set out above, the contribution that the single dwelling would make to local housing supply and the support that its occupants would provide to existing facilities in Mouldsworth and other settlements would be relatively modest. Therefore, the weight I afford to the benefits in those regards is limited.
22. The appellant states that the development would aim to achieve Passivhaus standards, and has given some indication of the measures that might be incorporated as part of seeking to do so. The proposed dwelling is intended to be accessible. I also note the intention that it would be provided with high speed fibre broadband, which would facilitate home working and online shopping and thus potentially reduce occupants' need to travel, and that electric vehicle charging facilities would be provided. Such matters are benefits that weigh in favour of the proposal. However, given the very small scale nature of the proposed development, such benefits would be relatively modest and the weight I afford them is limited.
23. Although the provision of new landscaping including native planting would be a visual benefit, such benefits would be localised and carry limited weight.
24. I note the appellant's stated intention to occupy the proposed dwelling and desire to downsize from their existing residence. However, such circumstances are not unusual and I afford them limited weight as a benefit in favour of the proposal.

25. The Council has not identified any specific objection with regard to the effect of the development on highway safety or other planning matters. However, an absence of harm is neutral, not a matter to be weighed in favour of the proposal.
26. I have been referred to appeal decisions in Mouldsworth and other settlements and to other developments that have taken place on Smithy Lane and nearby. However, from the limited evidence before me I cannot be certain that the circumstances in which those cases were determined or carried out, including the policy context in which they were considered, were directly comparable to those in the appeal before me. In any event, I have considered the appeal proposal on its own planning merits, based on current local and national planning policy and the specific circumstances in this case, and those other decisions referred to do not alter my conclusions above.

Green Belt Balance and Conclusion

27. The Framework requires that substantial weight is given to any harm to the Green Belt and states that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
28. I have found harm to the Green Belt by reason of the proposed development's inappropriateness, harm to the openness of the Green Belt and conflict with the Council's development strategy in its adopted Local Plan. Weighed against that are the other considerations set out above. However, for the reasons given I afford limited weight to the various matters that have been advanced in support of the proposal or, in some instances, find that the points made do not weigh in favour of it. Consequently, those other considerations would not, in their totality, clearly outweigh the harm to the Green Belt and other harm that I have identified. Therefore, the very special circumstances necessary to justify the development do not exist. The development would thus conflict with the Green Belt protection aims of the Framework, Policy STRAT 9 of the Local Plan Part One and Policy DM 19 of the Local Plan Part Two.
29. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

Jillian Rann
INSPECTOR