



Appeal Decision

Site Visit made on 20 July 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2021

Appeal Ref: APP/R0660/W/21/3271231

Holashaw, Hassall Road, Hassall CW11 4XU

- 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 Trevor Hodge against the decision of Cheshire East Council.
 - The application Ref 20/3635C, dated 21 August 2020, was refused by notice dated 2 March 2021.
 - The development proposed is the demolition of two existing disused buildings and erection of a residential dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The revised National Planning Policy Framework (The Framework) was published on 20 July 2021. This document does not however materially change the approach to the main issues arising from this appeal, when compared to its predecessor, and therefore no further comments have been sought from the parties.
3. Saved Policy PS8 of the Congleton Borough Local Plan 2005 (CLP) is referred to in the reason for refusal, but where this relates to the provision of new dwellings in the open countryside it requires accordance with Policy H6 of the CLP. It is however advised that Policy H6 is no longer saved, meaning that Policy PS8 does not assist in establishing on what basis new housing would be acceptable in the open countryside. I do not therefore refer to it in my assessment of the appeal.

Main Issues

4. The main issues are (i) whether or not the appeal proposal would constitute an acceptable form of development in the open countryside and (ii) whether or not acceptable living conditions would be provided for the future occupiers of the proposed dwelling.

Reasons

Development in the open countryside

5. Policy PG 6 of the Cheshire East Local Plan Strategy 2017 (LPS) states that within the open countryside, only development that is essential for a limited number of defined purposes will be permitted. The proposed dwelling does not fall within any of these listed purposes. Exceptions may however be made,

- including for the replacement of existing buildings (including dwellings) by new buildings not materially larger than the buildings they replace.
6. The proposal includes the demolition of two buildings. Building B is a building of agricultural appearance with a relatively modest footprint and height which is set well back away from Hassall Road. Whilst the demolition of this building is offered in mitigation against the size and impact of the proposal, the proposed dwelling would not be a replacement for it as it would be located in a materially different position on the appeal site, much closer to the frontage with Hassall Road.
 7. The proposed dwelling would be a replacement for existing building A and would be positioned in the same location as it. Although it would have a smaller footprint, it would have a substantially greater bulk and general visual impact, including in terms of its increased eaves and ridge heights when compared to the existing building. This means that it would be materially larger than the building it would replace and Part 3 iii) of Policy PG 6 of the LPS would not therefore be satisfied.
 8. For these reasons, I conclude that the proposed development would fail to accord with Policy PG 6 of the LPS as it would represent a new building in the open countryside that would be materially larger than the building it replaces.

Living conditions

9. The Noise Assessment (NA) submitted with the application concludes that, subject to mitigation relating to the windows that would be installed, there would not be harm to the living conditions of the future occupiers of the proposed dwelling through the generation of noise from the adjacent garage use. No objection is raised by the Environmental Health Officer to the findings of the NA and I have no reason to take a contrary view on this matter.
10. The access to the garage would however pass both in front of the principal elevation of the proposed dwelling and through what is shown to be its intended residential curtilage. It would not therefore be a satisfactory arrangement for a situation to arise where the proposed dwelling would be occupied by a person who did not have some form of control over the operation of the business.
11. In this respect, it is suggested that a condition could be imposed which would require that both the garage and the proposed dwelling stay in the same ownership. However, I am not persuaded that such a condition would meet the tests of being reasonable and enforceable, as other entities could have an interest, or subsequently obtain an interest, in either the business or the dwelling, meaning that ultimately the ownership link could be severed beyond that which can be controlled within the planning system.
12. In conclusion, the proposal would not provide an acceptable relationship between the proposed dwelling and the existing business use with specific regard to vehicle movements. Consequently, the proposal would fail to accord with Policy SE 12 of the CELP and Policies GR6 and GR7 of the CLP, where they seek to ensure that acceptable living conditions are provided in new developments.

Other Matters

13. The government's aim is to significantly boost the supply of housing, but the proposal would deliver only one new dwelling against the backdrop of the Council being able to demonstrate a 7.5 year housing land supply. Therefore, this consideration carries only limited weight in support of the proposal.
14. The proposal would result in the removal of Building B. However, although it appears to be in need of some degree of repair, it is of an appropriate appearance in a rural context, of a limited overall scale and set back into the appeal site, meaning that it does not have any significant visual impact on the surrounding area. Its intended demolition would not therefore be a benefit of the scheme and does not weigh in its favour.
15. Whilst Building A is more prominently located and is also in need of repair, by reason of its limited size it too does not have any significant visual impact. Furthermore, there is nothing before me to suggest that the construction of a new dwelling, and one which would have a more substantial visual impact than the existing building, is the only way to address the fact the building requires a degree of repair. The potential removal of Building A does not therefore offer support for the proposed development.
16. A number of letters of support have been submitted by interested parties, focussing predominantly on improvements to the visual appearance of the appeal site and to security. Matters relating to the appearance of the buildings have been addressed above and there is no substantive evidence provided with respect to the security of the existing business. These considerations also do not, therefore, justify the proposed development.

Planning Balance & Conclusion

17. The proposed development would fail to accord with Policies PG 6 and SE 12 of the CELP and Saved Policies GR6 and GR7 of the CLP where they relate to new development in the open countryside and the requirement to provide acceptable living conditions for future occupiers. These conflicts mean that the proposal would fail to accord with the development plan, taken as a whole.
18. There would be a benefit of limited weight arising from the provision of one new dwelling however this would not outweigh the harm that I have identified and the conflict with the development plan.
19. In conclusion, the proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Accordingly, the appeal should be dismissed.

Graham Wraight

INSPECTOR