



Appeal Decision

Site Visit made on 6 July 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2021

Appeal Ref: APP/A0665/W/21/3271434

Leigh View Barns, Cuddington Lane, Cuddington, Northwich CW8 2WD

- 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 D Leigh against the decision of Cheshire West and Chester Council.
 - The application Ref 20/00937/FUL, dated 10 March 2020, was refused by notice dated 17 November 2020.
 - The development proposed is conversion and extension of a traditional barn to a dwelling, including the demolition of existing modern farm buildings and associated development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In the interests of natural justice both main parties have had the opportunity to make representation. In reaching my decision I have had regard to the revised Framework.
3. As part of the appeal, the appellant has included a heritage report '*Henderson Heritage*' as part of their statement of case and an additional plan showing an amendment to the proposed elevations '*PL104 Revision F*'. The Council has had the opportunity to comment on the revised plan and report, I do not consider that its interests would be prejudiced if I take the amended plan and report into account. I shall therefore determine the appeal for planning permission on the basis of the plans at the time of determination, as well as the revised plan and heritage report submitted as part of this appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal upon the character and appearance of the host building.

- The effect of the proposal on the interests of protecting and safeguarding biodiversity, having particular regard to bats.
- If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 149 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. The exception which is set out at paragraph 149(c) of the Framework, is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
7. Policy STRAT9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies, 2015 (LPP1) sets out that development will be restricted in line with the Framework. There is no definition in the Framework or the LPP1 of 'disproportionate'. It is therefore reasonable for the Council to set out their interpretation of the policy.
8. The appeal site is located within the North Cheshire Green Belt. The site is accessed from Cuddington Lane and lies towards the south west. The site forms part of a wider development including both barn conversions and business premises, including existing agricultural buildings and is adjacent to Poplar Farm. The proposal involves the conversion of an existing agricultural barn with additional extensions to the barn to form a 4-bedroom dwelling. To facilitate the extensions to the agricultural barn, an existing steel/timber framed cow shed would be demolished.
9. The proposed single storey extension to the south of the building would incorporate a link glazed extension joining from the barn. In comparing the original building (existing barn) to the one that would result if the proposal were to go ahead, the footprint, scale and bulk of the original building would be significantly increased. There would be an appreciable increase in scale and form particularly in regard to the overall footprint, floor area and volume of both the glazed link and the extension to the barn. I consider that the outcome would be disproportionate when considered against the original building.
10. For the reasons given above, the proposed development would result in disproportionate additions over and above the size of the original building. The proposal would not meet the exceptions in paragraph 149 (c) of the Framework, it would form inappropriate development in the Green Belt.

Openness

11. As set out in paragraph 137 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual and spatial element.
12. The appeal site contains a number of agricultural buildings, to facilitate the development to the south the cow shed would be demolished. The appellant as part of the application provided a spatial assessment within the planning statement. Taking into consideration the demolition, this indicates that there would be some 78% decrease in footprint, 71% in floor area and 75% in volume. However, taking into account the erection of a sizeable extension to the original barn, this would still result in additional built form being present within the appeal site of over 100% footprint, 51% floor area and 55% volume.
13. The absence of visual intrusion of built form does not itself mean that there is no impact on the openness of the Green Belt as a result. Despite the reduction with the demolition of agricultural buildings, resulting in a reduction of built volume, and obviously some improvement to openness. There would still be a substantial domestic garden with associated paraphernalia, retaining walls, patio hardstanding and large driveway. These would all be unquestionably domestic in character and the proposed development would nonetheless have an urbanising effect on the site itself, compared with its existing agricultural use. Thus, having an adverse impact on openness.
14. I acknowledge that views of the building and land within the appeal site are relatively localised to the wider site / complex. Nonetheless, there would be some views from the nearby footpath and glancing views of the development from Cuddington Lane, looking north to south. Moreover, there would be views from within the site from the existing residential development and given the proposal incorporates additional built form, it would be clearly discernible in those views.
15. For the above reasons, the proposed development would not preserve, and would have an appreciable impact on, the openness of the Green Belt in both visual and spatial terms. The scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

Character and Appearance

16. Policy STRAT9 of the LPP1, states that the intrinsic character of the Cheshire countryside will be protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. Within the countryside it permits *'the reuse of existing rural buildings, particularly for economic purposes, where buildings are of permanent construction and can be reused with major reconstruction'*. Development must be of an appropriate scale and design to not harm the character of the countryside.
17. Policy DM22 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies, 2019 (LPP2), sets out that in the countryside, outside of any identified settlements, proposals for the change of use of

buildings to dwellinghouses will only be supported where it meets the criteria. This includes *'(4) the conversion or change of use of the building(s) would lead to an enhancement to its immediate setting'*.

18. The proposal incorporates an additional glazed link and extension to the original barn on the southern elevation forming additional living accommodation for the residential conversion. The barn is of rectangular shape of a simple utilitarian character and form, reflective of its previous agricultural use. The additions of the glazed link and extension would result in an almost 'T' shaped footprint, which would not be reflective of the original character of the barn, respect or retain its original rectangular form.
19. Furthermore, despite the ridge height of the extension being subservient to the original building height, or that it provides a clean break, it would introduce additional roof forms, which would be at odds with the simple gable style of the barn. Overall, the extension would appear as an incongruous addition with an overly domesticated vernacular. I acknowledge that there would be decreases in footprint to the southern side when comparing to the removal of the existing cow shed and that it is not an attractive building. However, the proposed extensions and alterations relate to the existing barn and would result in the loss of the historic agricultural appearance and character of the host building along the southern elevation.
20. I acknowledge that the appellant has provided a revised plan removing the rooflight along the north elevation and reducing those along the south roof slope. There would also be limited new openings along the west and east elevations, with the north utilising the existing.
21. Nonetheless, the design of both the link and extension would over domesticate the existing building, it would be of a substantial scale with cumulative impacts from the excessive openings and doors, windows and rooflights along the south to the detriment of the rural character and appearance of the host agricultural building. It would lose its simple original and utilitarian form, resulting in discordant features, causing harm to the character and appearance of the host building and would not enhance the immediate setting, as it would fail to lead to an enhancement of the original barn. The loss of built form visible (cow shed) from the adjacent Poplar Farm garden or wider residential properties, does not justify the harm I found to the character and appearance of the host building and its immediate setting.
22. My attention has been drawn to the approval of adjacent buildings within the context of the larger site (17/00954/FUL) and that it included several new openings and roof lights. I do not have full details of this scheme and so cannot be certain that the circumstances are the same. However, it does appear from the figure 6 and 7, that the design and scale of extensions is not comparable. In any case I have considered the appeal proposal on its own merits.
23. For the reasons given above, the proposed development would result in harm to the character and appearance of the host building. It would be contrary to Policy STRAT9 of the LPP1 and Policy DM22 of the LPP2, as I have already set out.

Protected Species - Bats

24. A number of ecological surveys appear to have been carried out during the application process. The updated bat survey¹, dated 20 October 2020, identifies as an updated appraisal, including a single dusk bat activity, results of two previous surveys and an update to the potential effects of the proposal and recommendations for mitigation and enhancement, where required.
25. The survey included both the building and adjacent agricultural shed. The shed did not exhibit potential to support bats and would be classed as negligible due to its condition. The activity surveys around the barn in 2018 and 2019 were low with four species recorded, including soprano pipistrelle, common pipistrelle and myotis bats. The latter survey identified foraging of a soprano pipistrelle and common pipistrelle with passing of natterer's bats. The barn was therefore identified as supporting a single myotis bat with a roosting within the roof.
26. All species of bats are protected under the Conservation of Habitats and Species Regulations 2017 (as amended), (the Habitats regulations), the Wildlife and Countryside Act 1981, and are therefore European Protected Species (EPS). The regulations impose a duty to consider whether there is a reasonable likelihood of EPS being present and affected.
27. Circular 06/2005² advises that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say, *'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'*.
28. In view of the potential impacts resulting from the proposed works the survey concludes that it has established the presence of bats, a single roost of a Myotis species would be lost, and that an EPS licence would be required to permit this development to proceed. Decisions about whether a licence can be granted are the responsibility of Natural England (NE) and separate from a planning permission.
29. Nevertheless, there is a duty under Regulation 9(3) of the Habitats Regulations and paragraph 116 of Circular 06/2005 that when effects on EPS are being considered, decision makers should have regard to the tests set in the Habitat Regulations that are used when licences are being determined. This includes three derogation tests. In this case, the Council contend it would not meet two of the three tests.
30. In regard to, Regulation 55(2) (e), the proposal would convert a disused traditional barn and secure its long-term retention, albeit residential. While there would be some economic and social benefits, this would be limited by the quantum of development proposed. The NE Guidance Note³ (NEGN) advises that when considering imperative reasons of overriding public interests

¹ Sambrook Associates Ltd, Update Bat Surveys, Report Reference: POP_R004 V1, date 20.10.2020

² Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System, 2005

³ Natural England Guidance Note: European Protected Species and the Planning Process; *Natural England's Application of the 'Three Tests' to Licence Applications*, 2010

(IROPI), NE will take account of whether the developments are required to meet or provide a contribution to meeting a specific need, including complying with local and national policies. In this case, there would be no IROPI as it would not comply with both local and national planning policies, including Green Belt policies and the proposal would cause harm to the character and appearance of the building, as I have already identified. It would therefore not satisfy the test.

31. Regulation 55(9) (a) '*that there is no satisfactory alternative*' as set out in the NEGN, it should be recognised that there are always going to be an alternative to a proposal and that a proportionate approach is adopted. From the evidence before me, it would appear that the applicant has demonstrated reasonable steps to minimise the impacts of the development and provided suitable mitigation and compensation measures within the survey. Including timing of works, soft demolition, watching brief and installation of bat boxes.
32. Nonetheless, I have limited evidence in regard to realistic alternatives, including why the extension should not be considered as part of the proposal as a whole. Moreover, given there is no dispute between parties over housing land supply issues, or that the proposal would meet a local identified need, it would appear that there are other satisfactory alternatives available. As such, I cannot be satisfied that a licence would be granted under this test.
33. For the reasons given above, I cannot be satisfied that the development proposals would not lead to an offence under the Habitats Regulations. As such, the proposal would not protect and safeguard biodiversity, having particular regard to bats. It would be contrary to Policy ENV4 of the LPP1 and Policy DM44 of the LPP2. Taken together, these policies safeguard and enhance biodiversity and geodiversity through the identification and protection of sites and development likely to have an impact on protected sites (statutory and non-statutory), protected/priority species, priority habits or geological sites must be accompanied by an Ecological Assessment that complies with industry best practice and guidance.
34. Furthermore, it would be at odds with the Framework, which sets out that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Considerations

35. The site is located within the Cuddington Conservation Area (CA), designated 1977, and while the effect of the proposed development on the character and appearance of the CA is not in dispute, I am mindful of my statutory duty in this regard. The CA is relatively small running along a section of Cuddington Lane and the CA features existing agricultural buildings. The appeal site and barn are located towards the wider agricultural complex and not highly visible from public viewpoints.
36. The Council concluded that the removal of the building to the south would not be detrimental to the preservation of the character of the CA, and that the conversion is not considered to be detrimental in respect of the wider CA. I see no reason to disagree with this assessment. I have also had regard to the appellant's heritage report. As such, the proposal is likely to have a negligible

effect on the CA and would, therefore, preserve its overall character and appearance.

37. Notwithstanding the above, I would disagree with the appellant that the Council has not given sufficient weight to the CA, and I have limited evidence in regard to Poplar Farm as a non-designated heritage asset. Even, if, I was to consider the contentions in the heritage statement, there would be no public benefit to the group complex as a whole. Moreover, I do not consider that the proposal as a whole, including the extensions to the barn would enhance the individual buildings and group complex value. Particularly as the extension and alteration to the original barn would be poor design and unsympathetic to its original simple character. I therefore give this consideration limited weight.
38. Reference is made to the removal of 930sqm of unattractive, modern farm buildings. I accept that these buildings do not contribute positively to the original barn building, its immediate or wider setting. However, just because agricultural buildings are not inappropriate development in the Green Belt, they do not necessitate that it is acceptable to replace with inappropriate development. Furthermore, such buildings were not originally designed to be attractive but to provide a function for the former agricultural use. Nonetheless, this minor benefit to openness does not outweigh the conflict with policy as set out above and the harm I have found.
39. The appellant refers to good design, in that the Green Belt location leads to a constraint of design and the interpretation of farmyard evolution. In this case, I acknowledge there would be some enhancement of the site bringing the original barn back into use, and demolition of unattractive agricultural buildings. However, the proposed extensions I have found to be disproportionate additions, inappropriate development and harmful to the character and appearance of the original barn, and its immediate setting.
40. Moreover, the Framework sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. I therefore give this consideration limited weight.
41. I understand other developments have been granted by the Council in nearby areas. I have been provided with limited details of them, although there may be some similarities with the appeal scheme. The appellant suggests that the Council have been inconsistent and made inaccurate assertions, but these do not affect the precise circumstances of the appeal scheme. I have also had regard to the appeal decision⁴ 'Hentucks Farm' which has been brought to my attention, but the individual circumstances of that case differ from the proposals before me, including that the scale of buildings to be removed, location, development plan policy and that the main issues did not relate to character and appearance or protected species, unlike the one residential unit before me. In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.
42. Some economic benefits would arise from, for example, the purchase of building materials during the construction period. Future occupiers would also

⁴ APP/X0415/W/19/3233363

contribute to the local economy and towards the viability of local services. However, again given the modest scale of the development such benefits would be limited.

Planning Balance and Conclusion

43. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would lead to an appreciable loss of openness to the Green Belt, which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
44. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and the other harm I have identified, including the effect on the character and appearance of the host building and protected species. Consequently, the very special circumstances necessary to justify the development do not exist.
45. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
46. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR