



Appeal Decision

Site visit made on 18 October 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/A0665/W/21/3278664

Glenbrittle Kennels, Chester High Road, Neston CH64 8TE

- 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 Carl Weaver against the decision of Cheshire West and Chester Council.
 - The application Ref 20/01868/FUL, dated 1 June 2020, was refused by notice dated 17 March 2021.
 - The development proposed is described as demolition of existing surplus buildings and erection of 6 detached Class C3 residential properties and the change of use of an existing Class A1 retailing building to a Class D1 children's day nursery.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above is taken from the application form. The scheme was amended during the application process and the main parties agreed a revised description of the development to read: "demolition of existing surplus buildings and erection of 7 dwellings and the change of use of an existing retail building to a children's day nursery". I have determined the appeal accordingly.
3. Since the application was determined, a revised version of the National Planning Policy Framework (the Framework) has been published. The main parties were given the opportunity to comment on any relevant implications for the appeal.

Main Issue

4. The appeal site is located within the Green Belt. The scheme would not be inappropriate development in the Green Belt because it would represent redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development in line with paragraph 149 g) of the Framework. This position is agreed by the main parties.
5. The main issue is therefore whether the site represents an appropriate location for the proposed development, having regard to access to local services, facilities and public transport as well as relevant local and national planning policy.

Reasons

6. The appeal site is located within the open countryside and comprises a kennels and cattery business. Policies STRAT 1 and STRAT 2 of the Cheshire West and Chester Council Local Plan: Part One: Strategic Policies (2015) (LPPO) seek to locate new housing with good accessibility to existing or proposed local shops, community facilities and primary schools and with good connections to public transport and to promote sustainable development through a settlement hierarchy.
7. The appeal site is not located within an identified settlement and therefore Policy STRAT 9 applies. This policy sets out types of development that will be permitted in the countryside in order to protect the intrinsic character and beauty of the countryside.
8. Policy DM 19 of the Cheshire West and Chester Council Local Plan: Part Two: Land Allocations and Detailed Policies (2019) (LPPT) is also relevant to the appeal. This sets out circumstances in which residential development in the countryside would be acceptable in principle. It includes the replacement of buildings on previously developed land where there is good access to public transport; it is located within reasonable walking distance of local services and facilities along a safe route, amongst other things.
9. Paragraph 79 of the Framework seeks to promote sustainable development in rural areas and states housing should be located where it will enhance or maintain the vitality of rural communities. The dwellings and nursery may, to a degree, support local services and facilities but there is no compelling evidence before me which demonstrates that the proposal would maintain or enhance community vitality.
10. There are bus stops close to the appeal site which are accessed by crossing Chester High Road. Based on the information submitted, I understand that these serve an hourly service travelling towards Chester but the return service travelling from Chester is more limited. Although this could be addressed by using two buses, I do not consider this to be a realistic option for future occupiers. The closest train stations are located in Hooton and Neston. These stations provide a good service, but a vehicle would be required to access them given the distance to the stations. Paragraph 105 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nonetheless, the appeal site does not have good access to public transport because the bus service is infrequent, particularly from Chester, and a vehicle would be needed to access train stations.
11. The nearest settlement to the appeal site is Willaston which I walked to during my site visit. Local residents have highlighted that they currently walk to the village. I have had regard to the publications drawn to my attention by the appellant which provide guidance for appropriate walking and cycling distances to facilities. Distance is one factor to determine whether the appeal site is located within reasonable walking distance of local services and facilities along a safe route. In addition, there are also other factors such as the width of the pavement, speed and frequency of vehicles.
12. The walk to Willaston involves crossing the A540 which is a dual carriageway with vehicles travelling at high speed. This road currently feels unsafe to cross

as there are no clear pedestrian crossing facilities. The majority of the walk is along Hadlow Road which is a key road serving the village. The appellant highlights that there has been no reported accident data or reported incidents along the pedestrian route.

13. The width of the pavement on Hadlow Road is narrow in some parts and directly adjacent to the road with vehicles travelling quickly having regard to the 50mph speed limit. Particularly on my return journey to the appeal site, from Willaston, the walk was not pleasant with my back to vehicles travelling quickly and given the width of the pavement in parts. I also noted that the majority of the walk along Hadlow Road is unlit and there was a regular flow of vehicles. On my site visit, I did not observe any other pedestrians or cyclists until I reached the village. However, I note that this was only a snapshot during the day and could be due to the wet weather I experienced.
14. The proposal includes a new pedestrian crossing facility across the dual carriageway which has been agreed with the Council's highways officers. The highway improvements would provide a safer means to cross the A540 which would benefit both future occupiers of the proposed development and existing occupiers including those located on Chester High Road and Dunstan Lane. The improvements would also make the bus service more accessible as it would be safer to walk to the nearby bus stops. Nevertheless, the highway improvements do not resolve the issue regarding the frequency of buses. A number of local residents have endorsed the benefits of the crossing and it weighs in favour of the scheme.
15. Although the junction improvements would improve the walk to and from Willaston, it is unlikely that future occupiers would regularly walk to the village, particularly in winter months. This is due to the combination of the distance to Willaston and the nature of Hadlow Road in terms of speed and frequency of vehicles, narrow pavement in places, and lack of street lighting.
16. Gordale service station, and the associated Garden and Home Centre (Gordale), could provide basic provisions for future occupiers. However, this would involve walking adjacent to the busy dual carriageway. I observed on my site visit that there is a path on the opposite side of Chester High Road to the appeal site, but it was unmaintained. It is unlikely that future occupiers would walk to Gordale, even with the proposed junction improvements, because it would feel unsafe to cross the road by Gordale and it would be unpleasant walking alongside the dual carriageway. For the reasons given above, the appeal site is not located within reasonable walking distance of local services and facilities along a safe route.
17. The Wirral Way is relatively close to the appeal site and forms part of the national cycle network. Some future occupiers might use the Wirral Way occasionally. Nonetheless, I do not consider that occupiers would regularly cycle to the Wirral Way or to other local services and facilities, including schools and train stations. This is because occupiers would have to cycle on busy roads which have vehicles travelling at speed to access them. The nature of the roads means that cycling would be an unpleasant experience and therefore future occupiers are more likely to rely on a private motor vehicle.

18. Various planning applications and appeals have been drawn to my attention¹. These include developments granted planning permission which involve a greater walking distance to services and facilities than the scheme before me, unlit highways and require pedestrians to walk on the road. I visited the nearby sites as requested by the appellant. I noted that the nature of the roads, including the speed of cars, differed from the walk from the appeal site to Willaston. Furthermore, I note considerations, for example the planning history of those sites, were a factor in determining the applications. Given that the location of the approved developments differs to the appeal site, as well as the other considerations, they cannot be directly compared with the scheme before me. Thus, I have determined the appeal on its individual merits.
19. The proposal would be contrary to the development plan, which is the starting point for decision-making. It would undermine the Council's plan-led approach to development which seeks to locate new housing in the most sustainable locations. Even in the context of the rural area in which the site is located, the availability of sustainable transport options is limited and unsuitable in comparison to more sustainable locations. The proposed development is likely to result in unsustainable travel patterns and a reliance on the use of a private vehicle to meet future occupiers' day-to-day needs.
20. For these reasons, although the Council's highways officer no longer objects to the proposal, the site would not represent an appropriate location for the proposed development, having regard to access to local services, facilities and public transport as well as relevant local and national planning policy. Accordingly, it would conflict with Policies STRAT 1, STRAT 2 and STRAT 9 of the LPPO and Policies DM 1 and DM 19 of the LPPT. These policies seek, amongst other matters, to ensure new housing in the countryside is located where it will enhance or maintain the vitality of rural communities and in sustainable locations. Furthermore, the scheme would not comply with the Framework which seeks to promote sustainable development in rural areas.
21. The appellant highlights that Policy STRAT 9 should not be given full weight as it is more restrictive than the Framework. Nonetheless, I consider it to be broadly consistent with the Framework. This is because its overarching aim is to protect the intrinsic character and beauty of the countryside and in the Green Belt additional restrictions will apply to development in line with the Framework. Thus, I find no significant conflict with Policy STRAT 9 and the Framework. In any event, given the conflict with the other local planning policies, the proposal would conflict with the development plan as a whole.

Other Matters

22. In addition to the benefits of the highway improvements, further benefits of the scheme have been highlighted by the appellant and local residents. These include: seven houses which contain affordable housing, a children's day nursery, short and long term jobs, removal of a bad neighbour and improved living conditions for neighbouring occupiers. I give these matters, including the highway improvements, significant weight.

¹ Including Local Planning Authority reference 12/02283 and 18/02994/FUL and appeal decision reference APP/A0665/W/3199697, APP/A0665/W/19/32416, APP/A0665/W/18/3208774, APP/A0665/W/18/32181, APP/A0665/W/19/3232921.

23. I acknowledge that the development is acceptable in other regards including residential amenity, design, hard and soft landscaping, ecology, highways including parking and trip rates and drainage. However, this would be expected of any new development and are not matters which amount to a positive factor in favour of the development.
24. The appellant highlights that the business has been struggling in recent years and COVID-19 has exacerbated issues. I understand that there is no family interest from younger generations to take the business on. No detailed evidence has been submitted to demonstrate the marketing exercise undertaken or that this is the only viable option for the site. Thus, this matter is a neutral consideration which does not weigh in favour of the appeal.
25. Based on the information before me, the Council has well in excess of five years' supply of housing land, and less harmful alternatives for the location and supply of housing to meet local requirements. As stated above, I give the benefits of the scheme significant weight which results in a finely balanced decision. Nevertheless, on balance, the benefits do not outweigh the harm that I have identified.
26. Interested parties requested that the appeal should be determined by way of a hearing. However, a hearing is not necessary as the planning issues raised can be clearly understood from the appeal documents and my site visit. Given the nature of the evidence submitted, the matters raised would not require questioning of the evidence at a hearing.

Planning Balance and Conclusion

27. As set out above, I conclude that the appeal site would not represent an appropriate location for the proposed development, having regard to access to local services, facilities and public transport as well as relevant local and national planning policy. I understand that the Council is able to demonstrate a five year housing land supply. Although I give the benefits significant weight, they do not outweigh the deficiencies that would arise as a result of the conflict with the development plan as a whole and there are no other considerations, including the Framework, that outweigh this conflict.
28. For the reasons given above, the appeal is dismissed.

L M Wilson

INSPECTOR