



Appeal Decision

Hearing (Virtual) held on 22 February 2022

Site visit made on 23 February 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2022

Appeal Ref: APP/A0665/W/21/3282557

Brook Farm, Hollowmoor Heath, Barrow, Chester CH3 7LF

- 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 & Mrs Wilson against the decision of Cheshire West and Chester Council.
 - The application Ref 20/04791/FUL, dated 18 December 2020, was refused by notice dated 23 March 2021.
 - The development proposed is farm managers dwelling, farm office and detached garage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Wilson against Cheshire West and Chester Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposed development is justified by the functional and operational needs of the farm enterprise;
 - The requirement for a legal agreement; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances necessary to justify the proposal.

Reasons

Whether or not the proposal would be inappropriate development

4. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and

should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt save for a number of exceptions.

5. Policy STRAT9 of the Cheshire West and Chester Local Plan Part One: Strategic Policies (2015) (LP1) states, amongst other things, that restrictions will apply to development in the Green Belt in line with the Framework.
6. The proposed development is for a farm manager's dwelling, farm office and staff welfare area. Both parties agree that the proposal would be inappropriate development in the Green Belt and based on the evidence before me I can only draw the same conclusion.
7. As such, in accordance with paragraph 148 of the Framework, I must assess whether the potential harm to the Green Belt identified, by reason of inappropriateness, and any other harm resulting from the proposal would be clearly outweighed by other considerations.

The effect on openness

8. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
9. The proposed development would introduce considerable built form to the area. The proposal and the associated paraphernalia would have a substantial impact on openness in both visual and spatial terms.
10. As such, I find that there would be a loss of openness of the Green Belt and this harm would be substantial contrary to the aims and objectives of the Framework.

Character and appearance

11. The appeal site comprises part of an agricultural field located on the southern side of Hollowmoor Heath, which alongside Heath Lane forms a road loop enclosing a number of fields. The area to the east of Great Barrow, in which the appeal site sits, is characterised by farmsteads and sporadic residential development within a verdant agrarian landscape. The area has properties that vary considerably in terms of design, form and scale.
12. There is no doubt that the proposal would be very apparent due to its position within a field devoid of development, but both parties acknowledge that there are no other suitable locations within the area for the development.
13. The proposed development would have an awkward and disjointed appearance rather than a cohesive one. The form and design of the gable feature including the size and number of openings would render it a prominent yet architecturally unremarkable feature. The single storey section, extending along the eastern elevation, and the conservatory appear as incongruous afterthoughts jarring against the form of the dwelling. The arched windows with decorative brick lintels would introduce a further design element to the proposal in contrast to the stone lintels and sills elsewhere on the property.
14. The combination of the proposed development's overall form including numerous design elements, fenestration and finishes would result in a

disjointed and visually confused development undermining the character and appearance of the area.

15. In addition, the triple garage would be positioned in a prominent location to the front of the dwelling. By virtue of its large footprint and its eaves and ridge height, it would be a conspicuous and disproportionately large feature within the area. It would be a discordant feature that would be out of proportion with the dwelling.
16. Given the surrounding open and verdant landscape it would be visually prominent when viewed from the roadside. Moreover, longer range views would also be afforded from the surrounding area.
17. I acknowledge that the garage would accommodate green technologies. However, this would not outweigh the harm that I have identified in respect of this matter.
18. The appellants have drawn my attention to examples of large detached dwellings in the area. Based on the information before me, including my observations at the site visit, I am not satisfied that they are comparable to the appeal scheme as they largely sit in the context of large agricultural structures and are viewed as part of a group of buildings rather than standalone development. In any event every appeal must be considered on its own merits, as I have done. The presence of these dwellings does not lead me to reach a different conclusion on this matter.
19. I conclude that the proposed development would adversely affect the character and appearance of the area contrary to LP1 Policy ENV6 and Policies DM6 and DM25 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (2019) which, amongst other things, require developments to respect local character and achieve a sense of place through appropriate layout and design and to be appropriate in scale, design, materials and landscaping so not to harm the character of the countryside.

Functional and operational need of the farm enterprise

20. LP2 Policy DM25 permits rural workers dwellings to support agricultural, forestry and rural land based enterprises. The policy does not restrict the size of rural workers dwellings, although it sets out that their size and siting should be commensurate with its established functional requirement and well-related to existing buildings or other dwellings.
21. The farm business at Brook Farm is a third-generation enterprise that has been operating for around 50 years. The enterprise extends over approximately 300 acres including land at Brook Farm and in nearby villages. The farm specialises in the rearing of some 23,000 pigs and 400 cattle annually. In addition to family members part time staff and self-employed farmers work at the enterprise.
22. The proposed development would incorporate a farm manager's dwelling, farm office and a new staff welfare area contained within a single building with a detached triple garage. The residential element would have a gross internal area of approximately 240m² including a decontamination area, open plan kitchen/living area, snug, conservatory and 4 bedrooms.

23. The appellants advise that it would form part of a package of benefits to attract and retain a high calibre farm manager who would have the experience and expertise to run an enterprise of this scale. It is claimed that such a manager is likely to have a family which is reflected by the size of the proposed dwelling.
24. Turning to the farm related area the building would include the manager's office, meeting room, farm office and filing area and staff welfare area including a room at first floor. The appellants advised, during the hearing, that this room would be a flexible space for staff rather than a staff bedroom.
25. The appellants advise that the farm regularly receives visits from supermarket and abattoir representatives, vets and other rural professionals including from the Environment Agency and Red Tractor Assurance. The proposed development would provide a dedicated and professional setting for meetings to take place and would improve biosecurity as visitors would not necessarily need to enter the farmstead. On the occasions when visitors would enter the farmstead, in addition to staff, the proposal provides changing and a separate decontamination area.
26. Furthermore, financial accounts submitted confirm that the turnover and net profits generated by the enterprise are significant. The business is financially sound. Based on the evidence before me I am in no doubt that Brook Farm is a significant enterprise in terms of its land area, number of livestock and turnover.
27. I acknowledge that circumstances change and the requirement for a rural workers dwelling may well fall away through land being sold off, technology innovations and diversification of operations. However, based on the evidence before me including the length of time the farm has been operating and its significant turnover, I am satisfied that the farm is a viable enterprise and there is no suggestion that this is likely to change in the foreseeable future.
28. It is evident that the farm has outgrown its current office and the existing welfare area requires improvement. Whilst staff would have to walk between the farmstead and the proposed welfare area, I am satisfied that there is a functional and operational need for it to be in the location proposed. In my mind there is a synergy between the varying functions of the enterprise consolidated into one building. This would improve facilities for staff and visitors and improve biosecurity and security in general.
29. Notwithstanding the above, I find that there are elements of the proposed development that would go beyond the established functional requirements of the enterprise. Whilst I note the appellant's desire to provide a dwelling that reflects the status of managing an enterprise of this scale neither the proposed triple garage nor the conservatory would appear to correspond to the facilities related to the enterprise and add unnecessary bulk and scale to the development. When such matters are considered in the context of what could reasonably be expected in relation to the enterprise, I find that the scale of the proposed dwelling would not be commensurate with the functional requirements of the enterprise for which it is sought.
30. As such the proposed development would not accord with LP2 Policies DM6 and DM25 which, amongst other things, require developments to demonstrate there is an operational need for it and for the size and siting of rural workers dwellings to be commensurate with the established functional requirement.

Requirement for a legal agreement

31. LP2 Policy DM25 sets out that the occupation of any rural workers dwelling will be restricted to persons employed in agriculture, forestry or other land based rural enterprise and must remain available for meeting the evidenced need. If this need falls away it should remain as affordable housing. The supporting text to the policy sets out the Council will use legal agreements to ensure it remains available for their intended purpose in perpetuity.
32. The appellants advise that due to ongoing discussions and feedback during the application a legal agreement was not progressed. However, they acknowledge that a legal agreement is required, and the appellants suggest that one could be secured via a condition.
33. I have given this consideration, but I am mindful that the Planning Practice Guidance states that conditions requiring appellants to enter into a planning obligation under Section 106 of the Town and Country Planning Act or an agreement under other power limiting the development that can take place until a planning obligation or other agreement has been entered into are unlikely to pass the test of enforceability or be appropriate¹.
34. The development plan policy requires a legal agreement where a rural workers dwelling is proposed. In the absence of such an agreement there would be no commitment that the proposed dwelling would remain as affordable housing if the agricultural need fell away, notwithstanding the suggested condition.
35. I conclude that in the absence of a legal agreement to secure affordable housing in the event that the agricultural workers need ceases would effectively lead to an open market dwelling in the open countryside. This would fail to meet the requirements of LP2 Policy DM25.

Balancing Exercise

36. In line with the Framework the proposal would be inappropriate development in the Green Belt. It would also result in the loss of openness. I attach substantial weight to this harm, as required by paragraph 148 of the Framework. I have also found harm with regard to the character and appearance of the area that is not offset by the functional need for a proposal of the size before me.
37. The appellants have progressed a number of factors that they contend amount to very special circumstances. In summary these include a functional and operational need for a dwelling for an experienced farm manager to operate a substantial farm enterprise. That there are no other available sites locally and the proposed development would improve biosecurity and the business operations of Brook Farm.
38. I have given these matters careful consideration and give them moderate weight in the overall balance. However, I find that either individually or cumulatively they do not amount to very special circumstances to justify the development, especially as the proposed dwelling would be larger than functionally required.
39. There are no other considerations in this case that would clearly outweigh the harm that I have identified. Consequently, the very special circumstances

¹ Paragraph: 010 Reference ID: 21a-010-20190723

necessary to justify the development do not exist. As such, the proposed development would be contrary to LP1 Policy STRAT9 and the Framework.

Conclusion

40. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Fiona Wilson Appellant

Ben Kettle Planning Consultant, Wharfe Rural Planning

FOR THE LOCAL PLANNING AUTHORITY:

Lynsey Logue Planning Officer

Beth Fletcher Senior Planning Policy Officer