



Appeal Decision

Site visit made on 17 May 2022

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Appeal Ref: APP/A0665/W/22/3291858

Badger Butts, Mill Lane, Willaston, Neston CH64 1RG

- 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 Mrs J Cobley against the decision of Cheshire West and Chester Council.
 - The application Ref 20/03631/FUL, dated 1 October 2020, was refused by notice dated 1 October 2021.
 - The development proposed is the demolition of existing detached garage and conversion of existing swimming pool building and gymnasium building to 3 no. independent dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the time of the Council's consideration of the planning application, the scheme was revised. The proposed conversion of the gym and demolition of the garage were withdrawn and the design of the pool building conversion amended. Accordingly, the description of development appearing on the Council's Decision Notice was 'Conversion of existing swimming pool building [to] 2 dwellings.' I have proceeded on the basis of the revised proposals that were before the Council when it made its decision. For the avoidance of doubt, the relevant plans are: 101.D.101.A, 101.D.104.A and 101.D.105.B.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the relevant development plan policy
 - whether or not the site would provide a suitable location for housing
 - the effect of the implementation of the proposed scheme and a development of a dwelling and garage previously approved on the site
 - if the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

4. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework makes it clear that new buildings are inappropriate in the Green Belt subject to a number of exceptions, including 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. Paragraph 150 states that certain other forms of development are also not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. Of these the appellant directs me to the re-use of buildings provided that the buildings are of permanent and substantial construction.
5. Policy STRAT 9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (LP1) and Policy DM 22 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (LP2) require that proposals for development in the Green Belt accord with the Policies set out in the Framework.
6. The existing building is a disused detached covered swimming pool consisting of a steel lattice framework supporting lightweight panelling. A structural report of the framework identifies that the frame is in good condition and does not need major reconstruction. However, the assessment is extremely limited and confirms only that it would withstand a load in line with the current weight exerted on the structure.
7. The existing building envelope consists only of lightweight thermoplastic (or similar) panelling. There is little appraisal of existing foundations or the capability of the lightweight structure to accept any new loading requirements, including the proposed cladding, insulation and internal plasterboard. Whilst I have little doubt that it could be incorporated into the final building, on the evidence before me, I am not persuaded that this would be capable of serving any notable structural function to achieve a habitable standard of accommodation without a considerable upgrade.
8. Moreover, the proposal to provide new masonry walls on three sides of the building as part of an entirely new external shell, the inevitable requirement for a new floor slab to replace the void of the swimming pool, and the likely necessity to provide new foundations, leads me to the conclusion that the existing building is not capable of re-use as living accommodation without significant works. The substantial replacement of the majority of its envelope, floor and introduction of new primary structural components including foundations would be tantamount to the construction of a new building.
9. As a proposed building of similar overall scale to the existing permanent building and one set within an existing garden area, the proposal would not have an adverse effect on the visual or spatial openness of the Green Belt or conflict with the purposes of including land within it. Nevertheless, for the reasons given, the existing building is not of substantial construction sufficient to enable the proposed re-use. It would not fall within the identified exception at Paragraph 150d) of the Framework and would constitute inappropriate

development in the Green Belt. For the same reasons it would conflict with Policy STRAT 9 of the LP1 and Policy DM 22 of the LP2 as they seek the same protection of the Green Belt.

Locations for housing

10. Policy STRAT 8 of the LP1 sets out the housing provision for the rural area of the Borough over the plan term. This directs new housing to Key Service Centres and allows housing in local service centres such as Willaston. It states that the amount of development in each local service centre will reflect the scale and character of the settlement concerned and the availability of services, facilities and public transport.
11. According to the explanation to Policy STRAT 8, as of April 2014, the significant majority of the minimum rural housing requirement was completed or committed such that few, if any, additional allocations would be necessary in the rural area. Furthermore, infill within the settlement boundaries was anticipated to meet the deficit.
12. Policy STRAT 9 of the LP1 seeks to restrict new development in the areas beyond identified settlements and subsequently classified as countryside. It seeks to protect the intrinsic character and beauty of the countryside by limiting development to that which requires a countryside location and cannot be accommodated within identified settlements.
13. Alongside Policy DM 22 of the LP2, Policy STRAT 9 supports the re-use of rural buildings. Under policy DM 22 the provision is subject to providing visual benefits through the building's ongoing retention. However, as both Policy DM 22 and STRAT 9 include the requirement for buildings proposed for re-use to be of substantial construction, as I have found above, there would be a conflict with those policies in that regard.
14. In visual terms, the proposed external works would improve the appearance of a timeworn building of little architectural merit. However, the building is barely visible from surrounding areas. It does not therefore contribute positively to the countryside location. The removal of a number of existing trees and shrubs to facilitate the use of the building and provide a new vehicular access would open up part of the site and facilitate some views to the building and the new driveway. Nevertheless, given the subordinate scale of the building and proposed design to reflect ancillary buildings located nearby, the effect on the appearance of the locality would be minimal.
15. However, despite the overall size of the plot associated with the existing dwelling, the formation of individual subordinate scaled plots within the land surrounding the existing house would contrast starkly with the spatial arrangement of development in the locality. It would run contrary to the existing grain of spacious, low-density housing set within large plots benefitting from mature landscaped boundaries. It would result in the intensification in the use of the site and an increase in the density of housing on this part of the lane. This would undermine the characteristic layout of development which contributes to the prevailing rural character of the locality.
16. I acknowledge that the site is within an area of predominantly housing development contiguous with the wider settlement. On the ground, it appears to form part of a continuous area of development within a large village.

However, it lies beyond the settlement boundary for the purposes of managing new housing distribution. Paragraph 5.73 of the LP1 identifies that 'where there is a need to accommodate development on the edge of a settlement then the boundary will be drawn to reflect this.'

17. There is no dispute that the Council is able to demonstrate a 5-year housing land supply. In the absence of a demonstrated need to be located in the countryside or where it would meet another specific housing need, the proposal would conflict with the Council's spatial strategy for managing locations for new housing. Whether or not the building lies within a 'village' as perceived on the ground, is not a test applicable to development under Paragraph 150 of the Framework or the strategic spatial policies which substantially rely on defined settlement boundaries.
18. The proposal would be accessible to services for day-to-day living needs and could be reached without reliance on private motor vehicles. They could be accessed by a range of transport modes. However, the approach of the LP to development in the rural area aims to strike a balance between allowing for the managed growth of rural towns and key settlements whilst taking account of the overall plan strategy to concentrate most new development in the borough's four urban areas. The conversion of ancillary garden buildings in the locality, of which there are many, would potentially undermine this strategic aim by significantly increasing the density of development within distinct areas beyond the settlement boundary.
19. In support of the proposal, the appellant directs me to appeal decisions relating to other locations in the Green Belt and permission Ref 18/02715/FUL for a dwelling on the forward part of the appeal site. However, those decisions were concerned with infill development. The Council have determined that the location of the proposal would fall outside the scope of 'infill', and this is not contested by the appellant. Although relevant, those decisions are not binding and do not limit the scope of judgement in individual case circumstances in other locations.
20. Whilst I find that there would be little conflict with Policy STRAT 10 of the LP1 due to the proximity of the site to services providing for day-to-day living needs, this does not outweigh the harm arising from the conflict with the Council's adopted spatial strategy for managing housing delivery and growth of rural settlements, or the protection of the countryside. In those regards, the proposal would conflict with Policies STRAT 8 and STRAT 9 of the LP1, Policy DM 22 of the LP2 and the Framework as they seek to manage housing delivery in rural areas and protect the character and intrinsic beauty of the countryside.

Multiple permissions

21. According to the main parties, the site benefits from planning permission 18/02715/FUL for the erection of one dwelling and detached garage with games room above. This was granted on 4 April 2019 and subject to a 3-year commencement condition. Despite this, there is little before me to verify whether that permission remains extant or has now expired.
22. Under the terms of a s78 appeal it is not for me to determine whether or not a permission has begun. To that end it is open to the appellant to apply for a determination under s192 of the Town and Country Planning Act 1990 and my

determination of this appeal under s78 does not affect the issuing of a determination under s192 regardless of the outcome of this appeal.

23. I note, however, that the areas of the site covered by the proposed and approved schemes coincide considerably. There can be any number of permissions covering the same land, however, it seems to me that the schemes would overlap to prevent their completion if the other took place. Whilst that observation should not be taken as a determination as to the physical possibility of implementing both schemes, it is enough for me to consider that such works would be complicated and unlikely to occur.
24. For that reason, I find that the proposed development would be unlikely to cause unacceptable harm in respect of the Green Belt, character and appearance, or living conditions specifically because of the 18/02715/FUL permission. In that regard, it would not conflict with Policies STRAT 9, ENV 6 and SOC 5 of the LP1, Policies DM 2 and DM 3 of the LP2 or the Framework to any greater extent than previously identified. However, it is important to note that that finding is neutral in the planning balance. It is not a positive consideration in favour of the houses proposed.

Other considerations

25. In support of the proposal the appellant directs me to a number of benefits that would arise from it. These include the contribution of housing to the rural and wider housing need in the borough, allowing the village to grow and adding to its vitality whilst making efficient use of the land. It would provide smaller residential units that would diversify the types of housing in the locality and lend themselves to occupation by the elderly. Despite the Council's healthy housing land supply, as benefits of the proposal these are matters of moderate weight in favour of the scheme.
26. The appellant identifies that the proposal would have economic benefits through the construction phase of the development and through its use. This is because occupiers would contribute to local spend supporting local services, pay taxes and could be employed locally. However, in the context of the village-scale economy these would be only a minor contribution and a limited benefit of the scheme.
27. The proposal would be located close to day-to-day services such that the need to travel would be limited and could be achieved by a number of transport modes. This would be consistent with a strategic aim of policies within the LP for new development. As requirements of the development plan, this and the lack of objections or compliance with policies relating to highway safety, design, ecology and living conditions are not benefits in favour of the development.
28. I note third party concerns in relation to the proposed access, however, this is similar to the previously approved access granted under permission Ref 18/02715/FUL. Notwithstanding, I find that the proposed use of the access by traffic generated by 2 small housing units would not materially affect highway safety or capacity in the vicinity of the site.

Conclusion

29. The proposal is inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green

Belt and that substantial weight should be given to that and any other harm to it. I have also found that the proposal would conflict with the Council's adopted strategy for the management and spatial distribution of housing, and its protection of the character of the countryside.

30. The considerations presented by the appellant, including the contribution to housing provision and diversity, the contribution to the local economy and support for accessible local services, whether taken individually or cumulatively, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist.
31. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not be allowed.

R Hitchcock

INSPECTOR