



Appeal Decision

Site visit made on 15 November 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2022

Appeal Ref: APP/A0665/W/22/3299839

Land at Ollershaw Lane, Marston, Cheshire CW9 6ER

- 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 P Lunn against the decision of Cheshire West and Chester Council.
 - The application Ref 21/03994/FUL, dated 25 September 2021, was refused by notice dated 17 March 2022.
 - The development proposed is 'Proposed demolition of existing storage Building, replacing with single storey dwelling and change of use of Land to Domestic Curtilage'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr P Lunn against Cheshire West and Chester Council. This application is the subject of a separate Decision.

Preliminary Matters

3. There is dispute between the main parties as to the lawful planning use of the appeal site. Notwithstanding that I must conclude such status on the balance of evidence, it is not for me, under a section 78 appeal, to determine whether or not a use has subsisted for sufficient time to become lawful. To that end it is open to the appellant to apply for a determination under s191 of the Act and my determination of this appeal under s78 does not affect the issuing of a determination under s191 regardless of the outcome of this appeal. For the avoidance of doubt, my view of the site status is as a relevant consideration to the matters at hand only and is not binding.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework and any relevant development plan policies
 - the effect on the openness of the Green Belt
 - whether or not the proposal would provide a suitable location for housing
 - the effect on the character and appearance of the locality
 - if the development is inappropriate, whether any harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt

5. 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.
6. Of those exceptions, the appellant draws my attention to Paragraphs 149 d), e) and g). These relate to the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces; limited infilling in villages; and, limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), respectively.
7. Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part 1) Strategic Policies (the LP1) confirms that the extent of the Green Belt will be maintained and that restrictions to development within it will apply in line with the Framework.
8. The site includes an area of hardstanding, a workshop, polytunnel and areas of outside storage. At my site visit, I saw that the polytunnel contained limited grown produce and small equipment. The storage included trailers, railings, a skip, workshop equipment and other items.
9. I note the appellant's assertion that the site formerly formed part of a sewerage works. At the time of my site visit, there was little evidence of any remnant of that use. The workshop is elsewhere described by the appellant as a domestic storage building. However, the planning record for the site indicates that the building on the site was granted on the basis of its agricultural use in 2018. This is not disputed by the appellant.
10. There is little else within the planning record, or evidence otherwise, to demonstrate that any use supplanting an agricultural use of the building and its curtilage has become lawful since 2018. Accordingly, based on the evidence before me and on the balance of probability, I find that a lawful use beyond that described in the planning record has not been established.
11. As an agricultural site, it is excluded from the definition of previously developed land as set out in Annex 2 of the Framework. Consequently, the provision in Paragraph 149 g) is disengaged. Additionally, for the reason that the proposed building would be in a different use to the lawful use of the workshop, Paragraph 149 d) similarly does not apply.
12. As a site bounded by development on 2 sides, its development would read as infill in the context of the existing row of development on the eastern side of Ollershaw Lane close to its junction with Marston Lane. However, the housing on this part of the road and adjoining section of Marston Lane is limited. It appears as an isolated group in the rural landscape.
13. On the ground, it presents as a localised cluster of road-fronting houses which are not uncommon in the surrounding landscape of predominantly open fields. Although a vehicle service garage is present at the junction, close to a post

box, there is little evidence of village services or community facilities within the group. Accordingly, it appears as a small hamlet at most. It is distinct from the more recognisable and roundly established village settlements nearby. I note that my finding in relation to the locality is consistent with another Inspectors conclusion¹, as referenced by the Council.

14. I acknowledge that the appellant refers the site as being located within the settlement boundary of Marston. However, if this is described in the development plan there is little reference to it or the extent of its inclusion within the submitted evidence. As I have concluded that the locality is not within a village based on the evidence before me and circumstances on the ground, the proposal would lie outside the provisions of Paragraph 149 e).
15. For those reasons, I conclude that the development has not been demonstrated to fall within any of the exceptions outlined in the Framework. It would thereby constitute inappropriate development in the Green Belt.

Openness

16. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
17. As a dwelling built to last many tens of years, the proposed dwelling would have a high degree of permanence. Although it would be smaller than the majority of houses in the immediate row, it would be visible above the enclosed front boundary and at distance across the open field to the rear of the site. It would thereby give rise to a loss of both spatial and visual openness in the context of the locality.
18. As inappropriate development in the Green Belt that would erode its openness, the proposal would be contrary to Policy STRAT9 of the LP1. For similar reasons, it would conflict with the Framework as it seeks the aforesaid aims.

Locations for housing

19. The Council's spatial strategy seeks to direct new housing to the main settlements which provide good access to services and facilities and so reduce the need to travel. New housing in the Rural Area is restricted to Key and Local Service Centres identified in the Cheshire West and Chester Council Local Plan (Part 2) Land Allocations and Detailed Policies, (the LP2). As a site within the countryside and outside of any designated settlement, development is limited to that requiring a countryside location under the terms of Policy STRAT9 in the LP1. The proposal would not fit within the types of development listed as acceptable under that policy, nor has it been demonstrated that it could not be accommodated within identified settlements.
20. The site is sufficiently remote from shops and facilities such that residential occupiers would be substantially reliant on private motor vehicles to reach them for day-to-day living needs. Although a small service station exists within the group of local development, this offers only limited convenience goods.
21. In support of the proposal, the appellant draws my attention to the fact that local roads benefit from footways and provide access to bus services. However,

¹ APP/A0665/W/17/3179895

given the distance to the local centres and requirement for travel along busy roads, this and the limited frequency of public transport services, would likely discourage the majority of residents from travelling by more sustainable modes. Whilst I have little doubt that some facilities could be reached by confident able-bodied persons, who could walk or cycle, the travel distances and conditions would be prohibitive for many. Furthermore, they would generally be greater when compared to development within the settlements identified as the most appropriate locations for new development.

22. The appellant contends that the Council's allocation for rural housing has not yet been met. However, notwithstanding that the plan period has several years to run, there is no indication that the current delivery of housing warrants a departure from the spatial strategy to achieve the anticipated rural housing need. Although I acknowledge that the proposal would contribute to housing delivery and mix available in the locality, in the absence of any specific identified local need this is not a strong argument in favour of the scheme.
23. I recognise that the proposal would meet some of the sub-criteria set out in Policy DM19 as it relates to exceptions for housing in the countryside. However, pursuant to my finding that it would not meet any of the specified exceptions, compliance or otherwise with the associated criteria are not matters in support of the location for new housing.
24. For the above reasons, I find that the location would not be suitable for new housing development having regard to its proximity to services and facilities and the attendant travel needs. It would conflict with Policies STRAT1, STRAT2, STRAT8 and STRAT9 of the LP1 and Policy DM19 of the LP2 as they seek to direct new development to the most sustainable locations, reduce non-sustainable travel and limit the development in countryside area to that requiring a countryside location.

Character and appearance

25. The site is located within a row of residential properties which extend beyond the junction to the east along Marston Lane (A559). Although there are some consistent phases of development, including the semis directly to the north-west of the site, the cluster consists of a range of property types and ages. Within that context the proposed bungalow would not appear at odds with the mixed character of buildings in the locality.
26. Furthermore, there is a range of plot sizes and shapes such that the site with a commensurate frontage would not appear incongruous. The proposed position of the building would be in rough alignment with the arrangement of local development and be set back within the plot. Given its limited scale it would appear recessive, more so given the existing frontage hedge is shown for retention. Accordingly, it would not appear prominent in the streetscene.
27. I note the Council's concerns with the proposed external finishes of the building including external timber cladding. Given that the existing building is timber clad, that the building would have subordinate scale and limited visibility, I do not consider it would harm the character and appearance of the locality.
28. For those reasons, I find the design and construction of the dwelling would assimilate with other development in the locality. It would be consistent with Policy ENV6 of the LP1 and Policy DM3 of the LP2 as they require proposals to

respect local character, protect visual amenity and achieve a sense of place through appropriate layout and design.

Other Considerations

29. The proposal would deliver an additional housing unit and contribute to the delivery of housing numbers and types within the Council area. It could be built in sustainable and recycled materials and offer suitable accommodation for those wishing to downsize, first time buyers or a single person household. Furthermore, occupancy of the site could enhance local security. In accordance with the Government's aim of boosting significantly the supply of housing, these are benefits of moderate weight.
30. As a requirement of the development plan, my finding that the design and appearance of the building, and its compatibility with the mix and arrangement of local housing, are not benefits in favour of the development. The absence of objection by statutory consultees in relation to other aspects of the proposal weighed against the development plan and other legislative requirements are neutral matters in the planning balance.
31. The development would utilise an existing access positioned on the outside of a bend. Visibility in both directions is reasonable. Given that vehicles would be able to turn within the site, I find any highway effects would be negligible.
32. I note the representation of a nearby resident concerned over the condition of the site arising from its recent use and the improvement its development could bring. However, any degradation or poor maintenance of sites is not a strong argument in favour of its development. It is therefore a matter of limited weight in favour of the proposal.

Conclusion

33. The proposal would amount to 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. The proposal would also cause harm to its openness and conflict with the Council's spatial strategy for the sustainable distribution of new housing development.
34. The considerations presented by the appellant, including housing delivery, mix and construction, or my findings in favour of the appellant with regard to the effect of the proposal on the character and appearance of the locality, when taken separately or together, do not outweigh the identified harm to the Green Belt and spatial strategy. Consequently, the very special circumstances necessary to justify granting planning permission do not exist. Furthermore, the development would be contrary to the development plan read as a whole and there are no other material considerations to indicate a decision otherwise than in accordance with it. For the reasons set out above, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR