



Appeal Decision

Site visit made on 16 November 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/A0665/W/22/3302407

**Land adjacent to Foxley Brow Farm, School Lane, Antrobus, Northwich
CW9 6LB**

- 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 John Byrne against the decision of Cheshire West and Chester Council.
 - The application Ref 21/04048/FUL, dated 30 September 2021, was refused by notice dated 30 March 2022.
 - The development proposed is the replacement of existing stable block with self-build residential bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
 - whether the proposed development would be in a suitable location, having regard to the relevant policies of the development plan which seek to manage the location of new development and access to services;
 - the effect of the proposal on the character and appearance of the area; and
 - if the proposal is inappropriate development, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

3. The Government attaches great importance to Green Belts. 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. Paragraph 147 of 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.

4. The Framework directs that development within the Green Belt is inappropriate, with the exception of the types of developments set out in paragraphs 149 and 150. Paragraph 149 (g) states that limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings) are not inappropriate development in the Green Belt, provided it would not have a greater impact on the openness of the Green Belt than the existing development.
5. The appeal site is a parcel of land which contains an L-shaped timber stable building and an area of hardstanding. The site is located within the Green Belt. Policy STRAT9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (adopted January 2015) (CWCLP1) sets out the types of developments that will be permitted within the countryside and, with regards to sites located within the Green Belt, states that additional restrictions will apply to development in line with the Framework.
6. The Framework defines PDL as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed infrastructure. There is no dispute between the parties that the land is occupied by a permanent structure, which is a conclusion I agree with. However, unlike the Framework the definition of PDL contained within the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (adopted July 2019) (CWCLP2) expressly excludes land used for the keeping of horses.
7. The appellant argues that the proposed development falls under the exception provided under paragraph 149 (g) of the Framework in that it would constitute the redevelopment of PDL. Given the conflict between the respective definitions contained within the Framework and the CWCLP2, there is some dispute between the parties over whether the land is in fact PDL. In any event, even if I were to agree with the appellant that the land was PDL, the exception also requires an assessment to be made in relation to whether the proposal would have a greater impact on the openness of the Green Belt.
8. The proposed bungalow would have a footprint 15% larger than that of the existing stable building, and up to eaves level would have an increase in volume of 25%. Additionally, the proposed ridge height would be approximately 1.3 metres higher than that of the existing stable representing an increase in height of over 33%. Therefore, although the increase in footprint and volume of the proposed development would be relatively modest and largely indiscernible in longer distance views, its significant increase in height would have the unavoidable consequence of the proposal having a greater impact on openness than the existing development.
9. Whilst the existing stable building is particularly modest in both size and design, the increase in height as well as its domesticated design and appearance of the proposed bungalow would have a far greater visual impact on the openness of the Green Belt than the existing stable building. Clear views of the proposal would be afforded from the south and when travelling along School Lane, which would only serve to exacerbate its impact. The proposed reduction in the amount of hardstanding on the site would have a limited positive effect but nevertheless would not overcome the overall greater impact of the proposal on the openness of the Green Belt.

10. The appellant has drawn to my attention appeal decisions¹ where it was found that modest increases in the size of new developments did not have a greater impact on openness of the Green Belt than the existing development. Whilst I do not have the full details of those cases in front of me, it is apparent from the decision letters that whilst there were modest increases in some aspects of those developments there were also reductions in others. This would appear to differ from the appeal scheme which sees an increase in footprint, volume, and height. I do not find that they are directly comparable to the proposal before me and in any event each appeal must be determined on its own merits.
11. Consequently, I conclude that the proposal would have a greater impact on the openness of the Green Belt than the existing development and would be contrary to Policy STRAT9 of the CWCLP1. The proposed development would therefore fall outside of the exceptions set out in paragraph 149 of the Framework and would be inappropriate development in the Green Belt which is, by definition, harmful.

Suitable Location

12. The site is located outside of the identified settlements and is therefore considered to be in the countryside. Policy DM19 of the CWCLP2 relates specifically to proposals for residential development, and in relation to such proposals in the countryside, outside of identified settlements, sets out that they will only be supported where it is necessary to meet minimum levels of new housing or where the proposal is one of seven listed exceptions.
13. One of the exceptions listed under Policy DM19 is the replacement of buildings on PDL where, amongst other things, it is located within reasonable walking distance of local services and facilities along a safe route. The definition of PDL contained within the CWCLP2 excludes land and buildings used for outdoor sport and recreation including the keeping of horses. Though the definition of PDL in the Framework largely mirrors the definition contained within the CWCLP2, it does not exclude land for the keeping of horses. The Council therefore contend that the site is not classed as PDL and as a result the proposal does not benefit from any of the exceptions listed under Policy DM19.
14. Notwithstanding the dispute between the parties regarding the whether the appeal site is classed as PDL, Policy DM19 also requires it to be located within reasonable walking distance of local services and facilities along a safe route. The site is located a short walking distance from the village of Antrobus which is identified as a local service centre in Policy R1 of the CWCLP2. My observations during my site visit were that whilst there were some facilities and services within the settlement, including a primary school, village hall, and bus stop, such provisions were nevertheless limited. I therefore find it highly probable that future occupiers would need to travel to larger settlements nearby in order to find suitable services and facilities to support their day-to-day activities.
15. Despite being within reasonable walking distance, the proposed development would only be connected to the settlement of Antrobus via an unlit road with no footpath available. I acknowledge that the site is located within a rural area where footpaths are less common and that on occasion people may choose to

¹ APP/P1940/W/16/3149558, APP/A1910/W/15/3130856, APP/G5180/W/15/3005057, APP/A0665/W/19/3232921, APP/D2320/W/17/3187337

walk along an unlit rural road, however I do not consider that a safe route to the nearby settlement is available. Due to this lack of connectivity and the lack of services and facilities available within the settlement, I consider that it would be highly probable that future occupiers would be heavily reliant on the private car. Therefore, the proposed development would fail to accord with the overall aims of Policy DM19 of the CWCLP2.

16. Though the appellant has not disputed the site's location outside of any identified settlement as set out in the Local Plan above, I have been referred to paragraph 80 of the Framework which states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the five stated circumstances apply. None of these circumstances are applicable to the appeal proposal. The Framework does not provide a clear definition of an 'isolated home' and therefore each case is required to be assessed on its own merits. The appellant has referred to various case law² where the definition of 'isolated home' has been considered.
17. As outlined above, in addition to being located outside of any identified settlement, I have found that the appeal site would suffer from a lack of connectivity to the nearby settlement and a lack of suitable services and facilities nearby. Furthermore, given the separation distances involved and the immediately surrounding open fields I find that there would be a very clear physical and visual separation between the proposal and both the settlement and the nearest dwellings. As a result, I conclude that the appeal proposal would result in the development of an isolated home in the countryside in conflict with paragraph 80 of the Framework.
18. For the reasons set out above the proposed development would not be in a suitable location having regard to the relevant policies which seek to manage and control the location of new development in the interests of good access to services and facilities. The proposal would therefore conflict with Policies STRAT1, STRAT2, STRAT8 and STRAT9 of the CWCLP1 and Policy DM19 of the CWCLP2 which seek, among other matters, to locate new development inside the boundaries of identified settlements and protect the countryside by restricting development to that which requires a countryside location.

Character and Appearance

19. The site consists of an existing L-shaped stable building constructed in timber cladding with a metal roof which is set back a short distance from School Lane. Though there is sporadic built development in the vicinity in the form of dwellings and farm buildings, the area is inherently rural in character with large areas of open agricultural land.
20. Due to the existing post and rail boundary fence along the site's frontage and the overall open nature of the site, the existing timber stable building is visible in wider views, particularly when travelling along School Lane. Despite its visibility, by virtue of its modest size and simple design and form the existing building does not appear as a visually prominent feature. The existing development is one which is commonly found in the countryside and one which fully reflects and harmonises with the rural character of the surrounding area.

² Dartford Borough Council v Secretary of State for Communities and Local Government and Others [2017] EWCA Civ 141, Braintree District Council v Secretary of State for Communities and Local Governments and Others [2017] EWHC 2743, and Braintree District Council v Secretary of State for Communities and Local Government and Others [2018] EWCA Civ 610.

21. The appeal proposal seeks the removal of the existing stable building and subsequent replacement with a brick-built bungalow. Whilst the proposed bungalow would be in a similar position to and have a footprint comparable to that of the existing building, I find that by virtue of its increased height and bulk, and its suburban domestic design, the proposed dwelling would appear as a visually intrusive feature in the surrounding area that would have an urbanising effect on this part of the countryside.
22. For these reasons, the proposal would be harmful to the character and appearance of the area. Consequently, the proposal would conflict with Policy ENV6 of the CWCLP1 and Policies DM3 and DM19 of the CWCLP2 which seek, among other matters, to ensure that developments respect local character and that their design and layout fully reflects the rural character and does not 'urbanise' the countryside.

Other Considerations

23. The proposal would provide economic and social benefits through the construction of the development and the additional contributions of the occupiers to the local economy. The provision of one new dwelling would also contribute to the area's housing stock. Given the scale of the proposed development these contributions would be modest and in some cases time limited. As such, I ascribe these benefits limited weight.

Other Matters

24. The appellant has stated that following the granting of planning permission (Ref 06-01526-FUL) in 2006 for the erection of stables on the appeal site, pre-commencement conditions attached to the permission were not complied with and the development was therefore considered to be unlawful. In any event, a planning application has been submitted and refused for the replacement of the stable block with a bungalow, and I have determined the subsequent appeal against that refusal on its own merits.
25. The appellant has also claimed that given the nature of the proposal, any future harm that may have arisen by the proposal could have been sufficiently mitigated through the use of planning conditions. The use of planning conditions however would be incapable of overcoming the identified harm that would be caused to the Green Belt or the sites unsuitable location.

Planning Balance and Conclusion

26. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be supported except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
27. The other considerations do not clearly outweigh the substantial weight that I have given to the harm that would be caused to the Green Belt, by reason of inappropriateness, including openness, the harm to the character and appearance of the area, and the unsuitable location for housing that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

28. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

David Jones

INSPECTOR