



Appeal Decisions

Site visit made on 15 November 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2022

Appeal A Ref: APP/A0665/W/22/3299956

Beeston Reclamation Yard, Whitchurch Road, Beeston, Cheshire CW6 9NJ, (355076, 359900)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by One Fine Day Developments Ltd against the decision of Cheshire West and Chester Council.
- The application Ref 20/03493/OUT, dated 22 September 2020, was refused by notice dated 17 December 2021.
- The development proposed is the erection of up to 25 residential dwellings and associated infrastructure works.

Appeal B Ref: APP/A0665/W/22/3299958

Beeston Reclamation Yard, Whitchurch Road, Beeston, Cheshire CW6 9NJ (355076, 359900)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by One Fine Day Developments Ltd against Cheshire West and Chester Council.
 - The application Ref 22/00063/OUT, is dated 07 January 2022.
 - The development proposed is the erection of up to 25 residential dwellings and associated infrastructure works.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed and planning permission for the erection of up to 25 residential dwellings and associated infrastructure works at Beeston Reclamation Yard, Whitchurch Road, Beeston, Cheshire CW6 9NJ is refused.

Procedural Matters

3. As set out above there are 2 appeals relating to the site. Both appeals were submitted in outline with all matters reserved save for the details of access and I have determined the appeals on that basis.
4. In both appeals I have had regard to location plan 20049-010 showing the proposed access point and detailed plans of the access and possible in-highway works associated with it. For the avoidance of doubt these include: DPL SK006 Rev A, DPL SK015 Rev A, DPL SK016 Rev A, DPL SK017 Rev A, 21-268-DE-1200-001 Rev A, and 21-268-SKH-001. Both applications included indicative layout plans and illustrative plans showing possible house types and I have considered them only as indicative.
5. Appeal A relates to a refusal of outline planning permission consisting of up to 25 houses on the site. This would include a range of house types and tenancies

comprising market housing and up to 45% affordable housing including a mix of social, affordable or intermediate rented, or affordable home ownership.

6. Appeal B relates to a planning application that was not determined by the Council within the prescribed period. It was also for up to 25 houses. These were proposed as First Homes, a home ownership type of discounted affordable housing. The Council have subsequently issued a statement for the purposes of this appeal highlighting that it would have refused the application for planning permission on three grounds. I have had regard to this statement for the residential development of the site in framing the main issues.
7. For the purposes of the appeals the appellant has submitted a Landscape and Visual Impact Assessment. I have had regard to the Wheatcroft Principles, the degree of engagement of all parties with the issue of the landscape impact, the interests of fairness and the detailed comments from the Council in response to the assessment. Noting the limited concerns of third parties in respect of the matter and the opportunity for the Council to fully respond to it, I do not consider that any party will be prejudiced if I take that information into account. I have subsequently referred to it in reaching my decisions.
8. An updated Biodiversity Metric was submitted by the appellant at the final comments stage of the appeal. Having regard to the same principles of openness and fairness, and the lack of opportunity for the Council to comment, I have referred only to the biodiversity information that was available to the Council in conjunction with the planning applications.
9. An incomplete deed of planning obligation made pursuant to s106 of the Town and Country Planning Act 1990 (as amended) has been submitted in conjunction with Appeal A. It includes obligations to come into effect if planning permission is granted. I return to this matter later in my decision.

Main Issues

10. The main issues in both appeals are:

- whether or not the site provides a suitable location for new housing
- the effect on the character and appearance of the locality
- the effect on biodiversity.

Reasons

Locations for housing

11. The site lies alongside a railway line and close to the A49, a main north-south road in the area. It consists of a large expanse of hardstanding used for storage and a number of modest buildings in various uses set along its southern edge. The land lies outside and distant from any defined settlement boundary identified within the development plan. The main parties agree that the site is located within a countryside area for the purposes of assessment against the development plan policies.
12. For countryside locations, Policy DM19 of the Cheshire West and Chester Council Local Plan (Part 2) Land Allocations and Detailed Policies (the LP2) sits alongside strategic policies STRAT1 and STRAT9 of the Cheshire West and Chester Council Local Plan (Part 1) Strategic Policies (the LP1). These policies

seek to direct new development to the most sustainable locations. They limit new housing within the countryside to that necessary to meet the minimum levels of development for new housing, or a number of specified exceptions subject to the qualifying criteria set out in detailed Policy DM19.

13. According to the Council, it is currently able to demonstrate a housing land supply of some 10 years equivalent. Although the appellant contests the exact figure, there is no dispute that current supply significantly exceeds the necessary 5 year minimum.
14. The pre-text of Policy DM19 highlights that the strategic housing requirement for the borough can be met through a combination of extant permissions, strategic sites identified in the LP1 and land allocations included in the LP2. It also identifies needs for affordable housing, first time buyer homes and housing to meet the needs of different groups in the community. These are anticipated to be delivered primarily in conjunction with market-driven housing schemes.
15. There is little evidence before me to demonstrate that the minimum rural housing need, as set out in Policy STRAT8 of the LP1, is not currently being met. Nor has it been shown that, despite a lag of affordable units against market housing delivery, it would likely fall short over the development plan period due to poor rates of delivery. Moreover, there is little to demonstrate that if any local housing needs exist in the locality, they cannot be provided within, or adjacent to the designated settlements.
16. In contrast, the Council does not dispute that delivery of First Homes has not yet occurred in the borough. Accordingly, there will be a latent demand for this type of housing. This is a matter I return to below.
17. As an exception to the restriction to development in the countryside, Policy DM19 allows for the provision of affordable housing in line with Policy SOC2 of the LP1 and DM24 of the LP2. These policies relate to small-scale exception sites located adjacent to Key Service Centres and Local Service Centres to meet an identified local affordable housing need.
18. The site is distant from the rural settlements identified for new housing development under Policy STRAT8 of the LP1 and R1 of the LP2. The nearest Service Centres are Tarporley to the north and Bunbury to the south. As it would not lie adjacent to a Local or Key Service Centre it is therefore beyond the scope of acceptable locations for such sites.
19. Furthermore, in the absence of a detailed viability appraisal to justify that market housing is necessary to deliver the proposed affordable units, the development proposed under Appeal A would be beyond the definitional provisions of an exception site for the purposes of Policy SOC2.
20. The proposal under Appeal B relates only to First Homes. The approach to First Homes was introduced by a Written Ministerial Statement (WMS) on 24 May 2021. The WMS and Planning Practice Guidance¹ clarify that exception sites for First Homes will be excluded from designated rural areas as defined in Annex 2 of the National Planning Policy Framework (the Framework). Appendix 1 of the Council's statement identifies that the site lies within a rural area designated under s157 of the Housing Act 1985, which are excluded.

¹ Paragraph: 025 Reference ID: 70-025-20210524

21. Even if the proposals were to be considered as general affordable housing, the necessary justification² in relation to local need is limited. Policy DM24 of the LP2 requires an up-to-date assessment of locally derived needs in conjunction with or agreed by the relevant Parish Council.
22. I acknowledge that some figures dated from 2020 are provided by the appellant. Although they are described as Housing Register Applicants expressing Moulton as a preferred location, the table indicates there was some demand for the Beeston area. However, this is now dated. Furthermore, there is little to suggest the necessary involvement of the Parish Council. It has therefore not been demonstrated that the quantum of development proposed is appropriate in scale to the local need as required in Policy BE3 of the Beeston, Tiverton and Tilstone Fearnall Neighbourhood Development Plan 2017–2030 [2017] (the NP). Consequently, I find that neither proposal has been demonstrated to meet a local affordable housing need, or that that need could not be accommodated within or adjacent to an identified settlement boundary.
23. Policies STRAT9 and DM19 allow for the replacement of buildings on previously developed land (PDL). I acknowledge that the site has been advanced for inclusion in the Council's Brownfield Land Register, however, it is not shown as being listed at this time. The development of PDL otherwise is limited to the replacement of existing buildings.
24. In practice, the redevelopment of PDL will include curtilage areas to allow for suitable layouts of replacement development, as identified in examples elsewhere provided by the appellant. However, in the context of restraint in countryside areas, I am not persuaded that this extends to the introduction of a significant increase in the quantum and scale of buildings, or their dispersal over the entire site area. The anticipated approach explained in the supporting text of Policy DM19 suggests a similar volume and area of redevelopment to be appropriate.
25. The existing buildings are limited to the southern fringe of the site. They are a mix of modestly scaled workshops, stores and some display areas. Although the extent of external storage on the site could change, or the amount of proposed development could be reduced in either scheme, given the appellant's anticipation of site abnormal costs in delivering development upon it, I am not persuaded that the balance of development would align with the aims of the restrictive policies. I have little doubt that the development of the site for up to 25 houses would significantly exceed the extent of built form currently located on the site and anticipated within the policies restricting development in the countryside.
26. I note the appellant's comparison to the extent of coverage on the former Beeston Cattle Market and the Beeston Castle Public House sites nearby, and others within the borough. However, as a development preceding the current development plan and assessed in the face of a housing land supply deficit, there were some clear differences in the context of those site considerations.
27. Notwithstanding that the proposals would not fall within any of the exceptions listed in Policy DM19, in directing new housing to the most sustainable locations it imposes a number of qualifying criteria. These include requirements to minimise travel and protect the rural character of the locality.

² Paragraph: 012 Reference ID: 67-012-20210524

28. There are a number of commercial premises in the vicinity, however, these are mainly specialised services and predominantly relate to comparison goods. For the purposes of the advancement of the development plan's spatial strategy, the Council's assessment of the locality has not identified it as one of the most sustainable locations for development. For shops and services to meet day-to-day living needs the nearest Key Service Centre is Tarporley. The Council estimate it to be a 2km travel distance away.
29. The appellant has provided an assessment matrix of travel distances to various facilities. However, in addition to being widely dispersed, the majority of those travel distances would exceed the Chartered Institution of Highways and Transportation's recommended walking distances.
30. Furthermore, although the main roads in the vicinity benefit from footways, they are substantially unlit, often exposed and alongside busy routes. Whilst the routes could be walked or cycled, they would not be an attractive proposition except for the most confident and able-bodied users. This would particularly be the case during hours of darkness or inclement weather.
31. This would contrast with a proposal³ for a small site redevelopment where access to services would be via quiet lanes near Goostrey, or a mixed-use scheme⁴ providing employment opportunities and transport link improvements lying only 1km from Lache, as referred to me by the appellant. As a single unit of accommodation, the effect of a conversion scheme⁵ making use of an existing building, would not generate a similar level of traffic to that likely to be associated with the appeal schemes.
32. The site is within reasonable walking distance of bus stops. However, the Council's evidence states the services are limited and infrequent. Although they provide access to main centres, the frequency of services is only twice daily. Whilst this is augmented by a twice weekly community service users, especially commuters, would be largely hamstrung by the times and frequency at which they operate.
33. Given the limited extent of facilities locally and constrained access to goods and services to support daily living requirements by sustainable travel means, I find residents would be highly reliant on the use of private motor vehicles.
34. The appellant asserts that the site would have a 'good' level of access to services for development in a countryside location and would be proportionate to it. However, as a type of development not demonstrated to require a countryside location, when compared to the performance of locations consistent with the Council's spatial strategy, accessibility would be significantly poorer. Even when accounting for issues such as home working, internet shopping, use of low emission vehicles, or the differences in opportunities to maximise sustainable transport solutions between rural and urban areas, the site would generate a disproportionate travel requirement in the rural location.
35. I recognise that dependency on private motor vehicles would be no greater than the approved housing schemes on the land a short distance to the south. However, as above, as schemes permitted under a previous policy regime and

³ Appeal 3155442

⁴ Appeal 3140690

⁵ Appeal 3224970

housing land status such that no 'need' test applied, I find this is not a good reason to permit a development that would increase travel demands in a locality distant from services.

36. The appellant asserts that the redevelopment of land to the south of the site is required to deliver a unit capable of use as a retail shop. Although I have little doubt that such a facility, if occupied, could reduce travel demand, there is little before me to demonstrate that its occupation for that purpose is a realistic proposition. Notwithstanding the legal requirement for its delivery, until it has been built and becomes operative, it would be conjecture to attach weight to its theoretical delivery at this time.
37. I acknowledge the arguments forwarded by parties in relation to the potential reinstatement of a railway station adjacent to the site. This would significantly increase the sustainability of the locality by offering alternative means of transport to private motor vehicles. However, notwithstanding the progress in seeking its delivery to date, there is currently no reassurance that that eventuality would arise. It is therefore also a matter of limited weight.
38. In support of the proposals, the appellant refers me to a raft of other housing sites that have been approved in the open countryside and caselaw relating to requirements for consistent decision-making. Although some are decisions made with regard to the existing development plan, others are cases which precede it, were granted when housing land was in short supply or when needs testing was not applicable. Reference is also made to cases refused on the basis of their locations against an undersupply of housing land. Elsewhere schemes have been approved in remoter locations under a healthy housing land supply.
39. It is therefore evident that the Council and some applications determined on appeal have resulted in a variety of decisions. Accordingly, as their circumstances will differ from the schemes before me, and the proposals would potentially exacerbate the cumulative effect of travel demands in conjunction with some schemes permitted, I do not find the diversity of outcomes to be a strong justification in support of development proposals identified to cause harm.
40. For the above reasons, I find that there is little to demonstrate that the land would be necessary to meet the minimum levels of development for new housing in the locality, including that for affordable housing needs. The schemes would provide homes in a locality with poor access to shops and services required to support day-to-day living needs that would lead to greater travel demands than allocated sites or those close to Service Centres.
41. They would conflict with Policies STRAT1, STRAT2 and STRAT9 of the LP1, Policy DM19 of the LP2 and Policy BE3 of the NP as they seek to deliver housing in sustainable and accessible locations in accordance with the Councils adopted spatial strategy and so limit housing in countryside areas to that meeting identified needs. For similar reasons it would conflict with the Framework.

Character and appearance

42. Lying on a levelled area alongside the railway line the land has railway siding characteristics. It sits adjacent to an existing operational yard still associated with the railway.

43. Notwithstanding that the site's main use is the outside storage of materials for sale, it does not appear incongruous as a storage compound. Storage areas are not unusual features in urban and rural locations, particularly in association with historic and modern linear transport routes, including railways and canals.
44. As land set back from the A49 road corridor its affinity is with the railway corridor and therefore is a feature in the landscape distinct from the prevailing pattern of road-fronting development. The setting of the railway line, which locally coincides with the Shropshire Union Canal and River Gowry corridor, is primarily rural being flanked by grassed fields and gentle valley slopes in the vicinity.
45. In the main views of the site, which are seen from and beyond the canal and rail corridor, the site and buildings appear low-key. From the recreational routes to the north, including footpath FP6, the canal towpath and the canal itself, the site currently has a limited impact. The lower levels of views along the canal, taken with the limited height and positioning of the buildings and storage, results in a minimal incursion to views dominated by the grassed railway embankment and backed by the green hillside south of the site.
46. Although the effect is slightly greater from the footpath, the buildings can be seen to nestle along the southern edge of the site close to the base of the rising hillside. Accordingly, the visual impact of the existing site is limited and consolidates with the railway-side setting.
47. The introduction of dwellings up to a height of 9.25m in domesticated plots would have a significant urbanising effect in the predominantly rural valley landscape. For railway users, as one of the few vantage points on the ground from where the development would be seen in conjunction with recent and ongoing redevelopment of brownfield sites to the south-east, it would read as a significant extension of the area of existing and approved development. Furthermore, this would be along an axis contrasting with the predominant road-fronting pattern of development in the locality.
48. The alignment would significantly increase the continuous expanse of built development. Houses located close to the railway would have a much higher degree of prominence along the northern edge of the site than the existing development. From the canal towpath, the buildings would likely break the skyline and obscure the backdrop of the hillside beyond the site. This, in conjunction with the proposed amount and spread of development, would inevitably change the site's character and, from the lower areas to the north, cause it to appear as an isolated urbanised area of new housing within the rural landscape.
49. The significant degree of change would be experienced by recreational users of the canal and footpaths, including those utilising canal moorings close to the site. The development of the substantial length of the site would result in a significant incursion along the valley side. From those locations, the effect of the development in changing the rural setting of those recreational resources would be considerable.
50. The appellant's assessment of the visual impact acknowledges that some adverse change would arise. Some mitigation of the effects could be achieved through appropriate use of landscaping which could have other benefits, including the creation of a wildlife corridor and biodiversity enhancements.

51. A landscape masterplan indicates that a degree of visual softening of the development could be provided by vegetation along the northern boundary. However, this would be unlikely, in my view, to avoid any overriding urbanising effect.
52. I recognise that the existing site's appearance could change if used more intensively or for different forms of storage. Furthermore, the amount of houses and building scales could be reduced to limit the comparable effects. Nevertheless, I find the proposed development of the site would result in a prominent change to the site characteristics. At the scale and density indicated, it would reduce the rural continuity currently visible along the roughly east-west valley corridor.
53. I recognise that the development of a brownfield site to the south has departed from the characteristic layout of broken ribbon development along the rural roads of the area. However, unlike the appeal site, that site is viewed in the context of the road corridor. It is therefore distinct from the circumstances of the proposals.
54. For the above reasons, I find that the proposed schemes would result in an urbanising incursion into the predominantly rural landscape with little demonstration of an ability to mitigate those effects. It would be highly conspicuous to recreational users of the countryside and rail commuters and appear as a considerable change in the character of the locality. The proposals would have an adverse effect on the countryside character and conflict with Policy ENV6 of the LP1 and Policy DM19 of the LP2 as they seek development to have no greater impact on the character of the countryside and avoid its urbanisation.

Biodiversity

55. Since the appellant's submission of the planning application the recommended methodology for calculation of the existing and proposed biodiversity site value has been updated. Consequently, the biodiversity metric submitted is now dated.
56. However, the application is submitted in outline. There is limited detail of proposed landscaping, set aside areas or other mechanisms to support biodiversity. However, pursuant to the finding on the first assessment and on a site substantially devoid of significant areas of vegetation, it would not be unrealistic to anticipate that an uplift in biodiversity could be achieved as indicated by that initial calculation.
57. Furthermore, the Council accept that this could be recalculated for the purposes of consideration of reserved matters. Accordingly, following Paragraph 55 of the Framework, I find that this is a matter that could be addressed through suitably worded condition/s to avoid conflict with Policy ENV4 of the LP1 and Policy DM44 of the LP2 as they require no net loss of natural assets and seek to provide net environmental gains.

Other Matters

58. I note concerns in relation to the proposed local highway arrangement at the access. The existing access emerges alongside the rail bridge over a sweeping bend in the A49, a busy route in the area. The speed limit in the locality is 30mph and lane changing is prohibited on the approaches. There is no dispute

between the main parties that adequate visibility could be provided at the access and that forward visibility to traffic turning into the site would be acceptable.

59. The proposals include central in-highway line marking and crossing islands either side of the access. Together these would provide physical and driver interpretation of carriageway narrowing. This would assist in limiting the downhill approach speeds in the locality to assist safe access and egress from the site. The islands would also constitute a benefit to pavement users in the locality by improving crossing safety. Such matters could be secured through use of Grampian conditions.
60. I acknowledge the concerns in relation to the potential effects of the appeal schemes on the deliverability of the reinstatement of a railway station on land adjacent to the site. However, there is little before me to indicate that a potential shared access between the schemes and a station development would be prejudicial to the station's delivery. Furthermore, whilst the schemes may limit potential options, particularly in relation to associated parking capacities, as separate and privately owned land, this is a matter for the relevant parties.
61. The proposed development of the site could support the case for a station in the locality and assist in providing improved access. It could enhance the potential viability of a shop which could open on the adjacent site. It could also integrate with and contribute to the vitality of rural communities in the area as a benefit of the schemes.
62. The appellant asserts that the proposal could make more effective use of the land. However, the benefit associated with its re-use is not without regard to the objectively assessed needs for housing in a rural location. Whilst I recognise the site could also offer opportunities for net environmental gains, these, and the offer to construct the buildings to perform above Building Regulation requirements, would be undermined by the associated travel needs and consequential reliance on fossil fuels to support them. These are therefore matters of limited weight in the appeals.
63. I recognise that the schemes for housing could be delivered to provide a mix of types and be designed to respond to building characteristics in the locality. This could be as a high-quality living environment. However, as requirements of the development plan, these are not benefits in favour of the proposal.
64. In relation to Appeal A, the s106 could secure the planning obligations necessary to make the development acceptable in planning terms in relation to associated community infrastructure obligations. This would include proportionate investment in outdoor play space, sporting facilities and school capacities. As requirements of the development plan, these are matters of neutral weight.
65. I note the concerns relating to the capacity for existing infrastructure to cope. However, there is little before me to demonstrate that the service infrastructure would not be sufficient to support either development. As a local charge, Council Tax receipts are mitigation, not a public benefit.
66. There would be economic benefits associated with the construction and use phases of the development. However, construction benefits would be time limited. The benefits associated with the residential occupation of the site

would be limited in the context of those associated with wider housing supply and the contribution of existing residents in the rural area. Accordingly, they are a matter of limited weight in favour of the development.

67. The absence of objections from other statutory consultees is not a matter in favour of the proposals.
68. The appeal site lies close to the Chester Canal Conservation Area. There is no dispute between the main parties that the proposed development would not have an adverse effect on the significance of the Conservation Area. Pursuant to the duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having considered the proposal and visited the site I concur with that view. This is due to the distinct delineation arising from the railway terrace. Accordingly, it is my view that the development proposed would preserve the significance of the designated area. As a requirement of the development plan and the Framework, this is also a neutral matter in the determination of the appeal.

Planning Balances and Conclusions

Appeal A

69. Taking all of the above together. The benefit of additional housing which could be provided on the site, including an exceedance of affordable housing policy requirements, is entitled to positive weight as it would contribute to the Government's aim of significantly boosting the supply of housing. Whilst I have found in favour of the appellant with respect to the matters of biodiversity net gain, I do not consider that the totality of the economic and social benefits, including the provision of highway improvements, outweigh the identified harm in relation to the Council's policies for sustainable distributions of development, rural housing constraint and the protection of the character of the countryside.
70. Accordingly, I find that 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 Appeal A should not be allowed.

Appeal B

71. The proposal for a First Homes exception site is excluded in this locality. As a housing development otherwise, it does not fit within the exceptions to new housing development in the countryside. As above, whilst I have found in favour of the appellant with respect to the matters of biodiversity net gain, I do not consider that the totality of the economic and social benefits, including the provision of highway improvements, outweigh the identified harm in relation to the Council's policies for sustainable distributions of development, rural housing constraint and the protection of the character of the countryside.
72. Accordingly, as a matter of planning balance, I find that 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 Appeal B should not be allowed and planning permission should be refused.

R Hitchcock

INSPECTOR