



Appeal Decision

Site visit made on 10 January 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2023

Appeal Ref: APP/A0665/W/22/3299690

Land at Greenwood Farm, The Village, Burton, Neston CH64 5TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mr Alex Crossley against the decision of Cheshire West and Chester Council.
 - The application Ref 21/02977/AGR, dated 11 July 2021, was refused by notice dated 26 November 2021.
 - The development proposed is a steel portal frame agricultural building for the storage of animal feedstuffs.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council considers that the proposal accords with the requirements set out in Paragraph A.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), so is permitted development, subject to conditions imposed by A.2 of the GPDO. One of the conditions is that where development consists of the erection, extension or alteration of a building, as in this case, the developer must apply to the local planning authority for a determination as to whether prior approval is required as to the siting, design and external appearance of the building. The Council has determined that prior approval is required and has refused to grant the application.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 6, Class A of the GPDO do not require regard to be had to the development plan. I have, though, had regard to the policies referenced in the evidence before me in so far as they are material considerations relevant to matters of siting, design and external appearance.

Main Issue

4. The main issue is the effect of the siting, design and external appearance of the proposed development on the living conditions of surrounding residential occupiers with regard to outlook and noise and disturbance.

Reasons

5. The appeal proposal would be located to the south of the dwelling, referenced as Greenwood Farm on an open field. The main farm buildings to Greenwood

Farm are situated along a vehicle access track to the south-west of the location where the appeal building is proposed. To the east of the appeal site is a residential construction site identified as the Burton Manor development.

6. The proposal is for a rectangular agricultural building with an overall height of around 8.54m-8.75m¹. The siting of the proposed building has been amended so that it is 8m from the boundary with the Burton Manor development where at the time of my visit, the houses closest to the appeal site were externally largely complete. Whilst reference has been made to an application² which seeks amendments to the planning permission on the Burton Manor development, from the information before me, this application is pending, and I have therefore assessed the appeal on the same basis as the Council relating to the approved development on this neighbouring site.
7. The Council has stated that on the approved neighbouring residential scheme, the nearest dwelling on its western side elevation has a garage and bathroom window facing the appeal site, with a window serving a study set further away on its main side elevation. The main habitable windows of this dwelling are orientated in a north-south direction and given the proposal would be seen in angled views from such windows, I do not consider there would be an adverse impact on the outlook of occupiers from within this neighbouring dwelling.
8. The proposal would however have a more direct relationship with the garden of the nearest dwelling on the Burton Manor development. Although the proposed appeal building would be set away from the boundary, it would also extend along the length of this neighbour's garden. I appreciate the external appearance of the proposal is typical of an agricultural building, and that its size meets the relevant provisions of the GPDO. Nevertheless, given the siting and the scale of the proposal, it would impose a significant bulk of built development that would result in an overbearing impact on the users of this neighbouring property's amenity space.
9. I was able to see trees and planting along the appeal site's eastern boundary at the time of my visit, but it was evident that the proposed building would be seen in views between the trees from the neighbouring property's garden, as acknowledged by the appellant.
10. Reference has been made to additional landscaping to assist in overcoming harm, which is said could be secured by a Unilateral Undertaking or by planning condition. However, such planting would take time to establish, and I am not persuaded that it would provide an effective screen from the development proposed, particularly when trees are not in leaf.
11. The proposed building would be used to store animal feed, and although this in itself would not give rise to harmful levels of noise, the proposal will generate associated activity in terms of deliveries. The appellant has made reference to the limited number of deliveries that are envisaged to the proposed building, and although I have no reason to doubt the information provided, there would be no restrictions as the Council has identified to the hours or days of deliveries. There is also limited information before me on the details relating to loading/unloading, such as the equipment that would be used in this or the

¹ Varying height measurements are referenced, with 8.54m provided on the application form and around 8.75m shown on a submitted plan

² LPA Reference: 21/02618/S73

effects of other noise, such as from reversing vehicles. As such, the proposal could result in significant noise and disturbance to the occupiers of the dwellings along the western side of the Burton Manor development.

12. My attention has been drawn to an Acoustic Report from Burton Marsh Farm which is also farmed by the appellant. Although there may be some similarities with the appeal scheme, the appellant acknowledges there are differences. Whilst some of these differences may be beneficial, such as the appeal building not generating noise from the keeping of livestock, I am not aware of the full circumstances of this referenced development, such as the size and position of the agricultural building in relation to residential properties and whether it is comparable to the appeal scheme before me. I can confirm that I have considered this appeal on its own merits having regard to its siting, design and external appearance.
13. For the reasons given above, I conclude the siting and design of the proposal would unacceptably harm the living conditions of surrounding residential occupiers, with regards to outlook and noise and disturbance. As such, it would be contrary to, insofar as they are material considerations, paragraph 130 f) of the National Planning Policy Framework, Policy SOC 5 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies and Policies DM 2 and DM6 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies, which seek, amongst other matters, development that does not harm the amenity of nearby residents.

Other Matters

14. A study³ considering the solar shading impact of the proposal has been submitted but a number of concerns have been raised in relation to its accuracy. Although the proposal would cause some overshadowing at certain times of the day, given its position to the west of the Burton Manor development, it will not materially affect the sunlight received at this neighbouring development. This will not however stop the development having an overbearing impact due to its siting and scale.
15. The appeal site is situated close to Burton Conservation Area (Conservation Area) and a number of listed buildings, including Burton Manor and attached Orangery as well as other associated buildings such as the Former Coach House of Burton Manor and a scheduled monument. The appeal site is also within the Burton Manor Registered Park and Garden. The Council has not raised concerns in relation to the heritage assets and considers the proposal, an agricultural building within an agricultural setting and to the west of the Grade II listed Burton Manor and attached Orangery, beyond the Burton Manor development, would preserve the setting of the nearby listed buildings, the scheduled monument as well as the setting of the Conservation Area. It would also be situated in an informal area of the Burton Manor Registered Park and Garden and would not unacceptably harm its significance. For these reasons, I also find the siting, design and external appearance of the proposed development would not be harmful to the heritage assets.
16. I accept, as set out by the appellant that there should be consistency in decision-making. Although the impact on residential amenity was not identified as a concern on a previous application, the Council has stated that it was for a

³ Burton Manor Solar Study

building in a different location. Despite this, the appellant considers the appeal proposal is not materially closer to the neighbouring residential development than the scheme subject of the previous application. However, from the information before me, the previous proposal was further to the south and I do not therefore consider it is directly comparable to the appeal scheme.

17. I note the references to the planning history of the site and that the appeal proposal was designed to overcome the reasons for refusal on a previous application. It also followed advice from the Council on relocating the proposed building to the current siting. The proposed building is required to support existing operations on a working farm and the location of the building sought has been influenced by the existing constrained access arrangements, although an access to the proposed building does not form part of the current scheme subject of this appeal. Despite all of these matters, I am required to assess the proposal on its own merits having regard to its siting, design and external appearance. Having done so in this case, I have found the proposal to be unacceptable for the reasons set out.
18. Reference has been made to a number of trees having been removed unlawfully by a neighbouring landowner, but this is a civil matter which is outside the scope of the appeal before me.

Conclusion

19. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR