



Appeal Decision

Site visit made on 14 February 2023

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/A0665/W/22/3307777

The Spinney, Hallsgreen Lane, Wimbolds Trafford, CH2 4JX

- 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 Renny Hamer against the decision of Cheshire West and Chester Council.
 - The application Ref 19/04186/FUL, dated 19 November 2019, was refused by notice dated 08 September 2022.
 - The development proposed is described as change of use of existing building to residential (C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, the Inspector asked the Council to respond to the appellant's contention that the proposal relates to previously developed land (PDL)¹ within the Green Belt. I have taken account of the additional information submitted by the Council and the appellant regarding this matter.
3. I appreciate that the proposal includes converting an existing building. However, such development does not prevent it comprising PDL in the Green Belt. I have made my Decision on this basis.

Main Issues

The main issues are:

- whether the proposal constitutes inappropriate development in the Green Belt, having regard to any relevant local and national Green Belt policies,
- if the proposed development is inappropriate development, its effect on the openness of the Green Belt,
- whether the location of the proposed dwelling would be suitable with regard to access to relevant services, facilities, employment opportunities and public transport options,
- whether the proposal would provide satisfactory living conditions for future occupiers, with specific regard to noise,

¹ I consider the aspects of the definition of PDL relevant to this appeal provided in the Cheshire West & Chester Council Local Plan (Part Two): Land Allocations and Detailed Policies, (CWCLP Part 2), are consistent with the definition of PDL provided in the National Planning Policy Framework (the Framework).

- if the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations that amount to the very special circumstances (VSCs) required to justify the development, and
- if the development is not inappropriate development, whether any identified harm is outweighed by other considerations.

Reasons

Whether inappropriate development in the Green Belt

4. For planning policy purposes, the site is located within the Green Belt. Policy STRAT 9 of the Cheshire West & Chester Council Local Plan (Part One): Strategic Policies, (CWCLP Part 1), and policies DM1 and DM19 of the CWCLP Part 2 advise that development within the Green Belt will be assessed in line with Green Belt policies in the Framework. I have made my assessment on this basis.

5. Paragraph 149 of the Framework advises that the construction of new buildings in the Green Belt is inappropriate development, except for several exceptions, one of which (149 g)) is

"limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary outbuildings) which would:

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority."*

6. For the avoidance of doubt, I consider the site to be PDL. The parties agree, and it is my view also, that the proposal would not have a greater impact on the openness of the Green Belt than the existing development. The second bullet point referred to in paragraph 149 g) of the Framework is not relevant in this case.
7. In light of the above, I conclude that the proposal would not be inappropriate development in the Green Belt. As such, it would accord with local and national Green Belt policies. As the proposal would not be inappropriate development in the Green Belt, there is no requirement to assess its effect on the openness of the Green Belt; nor are VSCs required to justify the proposed development.
8. Nevertheless, although the proposal complies with local and national Green Belt policies, it still needs to be appraised against other development plan policies.

Access to services, facilities, employment opportunities and public transport

9. To support sustainable development, Policy STRAT 1 of the CWCLP Part 1 requires, among other things, new housing to be located to provide good accessibility to local shops, community facilities and primary schools and good connections to public transport.

10. Due to the distances between the site and suitable services, facilities and employment opportunities, and the limited opportunities to readily access public transport, I accept the Council's conclusion that future occupiers of the proposed dwelling would be reliant on the use of private motor vehicles, which is the least sustainable mode of transport.
11. However, I disagree with the Council's conclusion that the proposed development, a single dwelling, would result in an increase in motor vehicle trips compared with the current use of the site as a storage/workshop facility. The current use of the site has the potential to generate far more vehicle trips than a single dwelling. Furthermore, even if very few employees were employed on the site and the number of trips to the site by visitors was limited, I consider the number of motor vehicle trips associated with the current use and those that would be associated with a single dwelling would be comparable.
12. Additionally, paragraph 105 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be considered in both plan-making and decision-taking.
13. Taking account of the factors outlined above, despite the harm that would result from future occupiers using private motor vehicles as their primary mode of transport, I consider that the location of the appeal site is not a factor which should prevent redevelopment of the site as proposed.

Living conditions – future occupiers

14. Policies SOC 5 of the CWCLP Part 1, DM 30 of the CWCLP Part 2 and sub paragraph 130 f) of the Framework broadly seek to ensure, among other things, that the living conditions of future occupiers would be satisfactory. Policy SOC 5 specifically states that development that would give rise to significant adverse impacts on health and quality of life, including the impact of noise on living conditions, will not be allowed.
15. The Noise Impact Assessment undertaken for the purposes of the proposal, prepared by Initiatives (Design) Ltd, Ref J002956/4390/2/TD, dated 2nd June 2020, concludes that, with the installation of acoustic fencing along the eastern and western boundaries of the proposed garden, the predicted external noise levels would range from 51-62 dBA within the garden area. The report therefore concludes that some areas of garden space will exceed the 55 dBA recommended by British Standards (BS) 8233:2014 and guidance from the World Health Organisation (WHO) 1999. However, the report notes that an area of the garden would be within the 55 dBA criteria.
16. I accept that it is predicted that the level of noise within an area of the proposed garden space would be below the recommended 55 dBA. However, the area identified appears to be relatively small, and the predicted noise levels for most of the garden area would exceed the recommended level.
17. I note that guidance in BS 8233:2014 advises that the 55 dBA standard cannot be achieved in all circumstances, and that in such circumstances where residential development may be desirable, development should be designed to achieve the lowest practical levels. It appears that the proposed mitigation measures would achieve the lowest practical levels in the circumstances. However, I do not consider that this is an instance where residential

development would be desirable for other reasons. As such, I consider the relevant guidance re 55 dBA should be adhered to in this instance.

18. The appellant has drawn my attention to residential development approved by the Council in 2016, Ref 15/01688/FUL. An aerial image provided by the appellant shows that some of the dwellings that form part of the approved development are sited relatively close to the Chester Road bypass. The appellant asserts that the living conditions of future occupiers of the proposed dwelling, with regard to outdoor space and noise, would be similar to the levels occupiers of dwellings close to the Chester Road bypass would experience.
19. I do not have many details of the development referred to. However, from the little information that is before me regarding this development, it is evident that the two schemes are not directly comparable. Thus, the approved scheme was for 113 dwellings, whereas the proposal is for one. Furthermore, I have not been provided with any information regarding noise assessments that may have been undertaken in relation to the development or whether any mitigation measures were provided.
20. The appellant contends that future occupiers of the proposed dwelling would enjoy living conditions similar to occupiers of existing dwellings within the vicinity of the site. However, I have not been provided with any substantive evidence which demonstrates that the noise levels in the gardens of dwellings within the vicinity of the site would be similar to the levels identified in the noise assessment related to the proposal.
21. Additionally, from observations I made during my site visit, the other dwellings I could see within the vicinity of the site were further from the M56 than the appeal site. Furthermore, I have no information regarding when the dwellings referred to were constructed, whether the M56 existed at the time, or whether mitigation measures have been provided at any of the properties.
22. For these reasons, I consider that the other considerations referred to by the appellant to justify the proposed development are either not directly comparable or not relevant to the case before me.
23. For the reasons outlined, due to the levels of noise future occupiers of the proposed dwelling would experience within most of the proposed garden space, I conclude that the proposal would not provide satisfactory living conditions for future occupiers of the proposed dwelling. As such, the proposal does not accord with Policies SOC 5 of the CWCLP Part 1, DM 30 of the CWCLP Part 2 or sub paragraph 130 f) of the Framework.

Other Considerations, Planning Balance & Conclusion

24. Paragraphs 2 and 47 of the Framework advise that applications for planning permission shall be determined in accordance with the development plan, unless material considerations indicate otherwise.
25. The provision of an additional dwelling would be a social benefit. However, as it is only one dwelling, I attach limited weight to this benefit. There would be some economic benefits during the construction phase and post construction. However, as these would be small scale, I attach limited weight to such benefits.

26. Notwithstanding my conclusions regarding development within the Green Belt and access to services, facilities, employment opportunities and public transport options, I have found that the proposal would not provide satisfactory living conditions for future occupiers due to noise disturbance. I conclude that the other considerations outlined do not outweigh the significant harm I have found regarding this matter. The proposal therefore does not accord with the development plan as a whole. There are no other considerations, including policies in the Framework, which lead me to conclude other than in accordance with the development plan. The appeal is therefore dismissed.

J Williamson

INSPECTOR