



Appeal Decision

Site visit made on 7 June 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2023

Appeal Ref: APP/A0665/W/22/3302865

Land off Dunstan Lane, Burton, Neston CH64 8TG

- 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 and Mrs James Chadwick against the decision of Cheshire West and Chester Council.
 - The application Ref 21/05089/FUL, dated 21 December 2021, was refused by notice dated 23 March 2022.
 - The development proposed is the erection of 2 no. dwellings and associated infrastructure works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no. dwellings and associated infrastructure works at Land off Dunstan Lane, Burton, Neston CH64 8TG in accordance with the terms of the application, Ref 21/05089/FUL, dated 21 December 2021, subject to the conditions in the schedule at the end of this decision.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect on the character and appearance of the surrounding area;
 - whether the occupants of the proposed development would have adequate access to services, facilities and public transport; and
 - if the proposal is inappropriate development, whether harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

3. Burton is a village washed over by the Green Belt. Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part 1) - Strategic Policies –

adopted January 2015 (the Local Plan Part 1) and Policy DM19 of the Cheshire West and Chester Council Local Plan (Part2) – Land Allocations and Detailed Policies – adopted July 2019 (the Local Plan Part 2) set out that development in the Green Belt will be restricted in line with the Framework. In this respect, Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 states that the construction of new buildings should be regarded as inappropriate in the Green Belt, subject to specific exceptions, including 149 e) limited infilling in villages.

4. There is no definition of the term 'limited infilling' in either the Framework or in Policy STRAT9. My attention is drawn to the supporting text to Policy STRAT 8, which explains that infill is the 'filling of a small gap, up to two dwellings, in an otherwise built up frontage in a recognised settlement, albeit this definition is set out in the context of targets for housing delivery
5. The Framework exception does not make specific reference to settlement boundaries or infill boundary lines in relation to limited infilling in villages in the Green Belt. Caselaw has also established that it is necessary to consider whether, as a matter of fact on the ground, a site appears to be within a village, and whether or not a site lies outside a village boundary as designated in the development plan is not determinative of this point.
6. The development plan does not define a boundary for the village of Burton. Consequently, I am required to make a judgement as to whether the appeal site constitutes development within a village. I noted on my site visit that a large detached dwelling, Hillmorton, stands to one side of the appeal site, with its extensive rear garden wrapping around the rear of the site. Beyond Hillmorton there are two further properties, known as Fiddleston Lodge and Dunstan Wood, set in extensive woodland grounds. To the other side is Rylands, a detached house, beyond which are a further ten properties of differing sizes and styles. A former stable block, that has been converted to a residential use and is now known as Sandstone Cottage, lies to the rear of Rylands. Consequently, the appeal site is surrounded on three sides by existing residential curtilages. The combination of these properties defines the boundary to the settlement of Burton, with Dunstan Lane forming the edge of the settlement, with open countryside to the west. Therefore, in my judgement, the proposal would constitute infill development within the village of Burton
7. The proposal comprises the erection of 2 dwellings on a site that has a frontage of some 109 metres. The width of the frontage of plot 2 is larger than its immediate neighbour, Rylands, and the properties closer to the village. That said, it is narrower than the plot width of Hillmorton, which lies immediately to the north. Plot 1 has a width which is significantly narrower than Hillmorton but is comparable with other properties that lie within the locality. Therefore, in my view the proposed development would constitute limited infilling.
8. Accordingly, on this main issue, I conclude that the proposal constitutes limited infilling in a village. As such it is not inappropriate development in the Green Belt. Consequently, the proposal is consistent with Policy STRAT9 of the Local Plan Part 1, and paragraph 149 of the Framework.

Openness

9. As I have found that the proposal is not inappropriate development in the Green Belt it is not necessary to consider openness.

Character and appearance

10. The appeal site is located within a ribbon of detached dwellings that are set a modest distance back from Dunstan Lane, behind landscaped front gardens, with views over open countryside. The dwellings have evolved over a period of time resulting in a varied pattern of buildings in terms of location, scale, and design.
11. The scheme proposes the erection of two large, detached dwellings, set back from the road by a similar distance to other properties in their immediate vicinity. The proposed dwellings due to their individual design, landscaped front gardens and significant gaps between each other, and their immediate neighbours, would not appear unduly prominent or alien to their surroundings.
12. Furthermore, the proposed dwellings would represent a natural evolution of the eastern side of Dunstan Lane and not cause significant harm to the character and appearance of the open countryside located on the opposite side of the lane.
13. Therefore, on this main issue, I conclude that the proposed development would not adversely affect the character and appearance of the surrounding area. As far as they are relevant, the proposal would accord with Policy STRAT8 and STRAT9 of the Local Plan Part 1 and paragraph 130 of the Framework. These policies jointly seek, amongst other matters, to deliver high quality development that is of a scale and design that conserve the character of the settlement and the countryside. I do not consider Policy DM22 of the Local Plan Part 2, as referred to in the second reason for refusal, as being relevant to this appeal as it relates to the change of use to dwellinghouses and residential conversions.

Access to services, facilities and public transport

14. The village of Burton is not defined as a local service centre in the Local Plan Part 2. Nonetheless, it has a primary school, church, village hall and cricket ground with clubhouse facilities. Additional facilities and services are provided in Neston, which lies around 3 miles from the appeal site. These include a secondary school, a medical centre, a dentist practice and everyday shopping and banking facilities. The appellant refers to a bus stop, located around 300m to the south of the appeal site, however, I have no evidence before me to indicate whether a bus service currently connects Burton to nearby local service centres, including Neston, and if one does, its regularity. Consequently, there is no certainty that the site could be accessed by public transport.
15. Whilst the roads in the village do not all have dedicated footpaths, the 30 mph limit, combined with street lighting and the presence of numerous individual vehicular accesses mean that vehicles are more likely to be travelling at slower speeds. Moreover, in this regard I have taken into account that the Highway Authority consider "that the comings and goings from the site would not have a

significant impact upon the highways network and as such the proposal would not give rise to operational or safety concerns”.

16. Given the size of the dwellings and the number of bedrooms indicated on the submitted drawings, it is likely that a family could occupy the properties. Consequently, it can be reasonably expected that the occupiers would use and support the primary school and other services that currently exist in Burton. They would also have access to the proposed community shop and café that forms part of the development that is currently taking place at Burton Manor.
17. Burton is not recognised as a Local Service Centre in the Local Plan Part 2. However, there is nothing in STRAT 8 of the Local Plan Part 1 that precludes development outside the Local Service Centres providing development is at an appropriate level with adequate services and facilities, and access to public transport. Furthermore, paragraph 105 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
18. In this instance, the proposal is for two infill dwellings and, given the uncertainty regarding access to a bus service, there is likely to be a dependency on the private motor vehicle as the main mode of transport. That said, the proposal would help to sustain the facilities available within Burton, which would be within reasonable walking distance of the appeal site. Cycling would also provide an alternative to the use of a motorised vehicle.
19. I accept that there would be an element of conflict with policy, insofar as access by modes of transport other than by private car would be limited. However, the absence of public transport, is not determinative. In particular, given the scale of the proposed development, it would not be likely to result in significantly increased traffic levels. Moreover, given the close proximity to other residential properties, and the village facilities, it would not result in isolation for those without access to a car. Consequently, on this main issue, the proposal would not conflict with Policy STRAT10 of the Local Plan Part 1 which, amongst other matters, seeks to the minimise the need for travel, with proposals for new development located so as they are accessible to local services and facilities by a range of transport modes.

Very special circumstances

20. I have found that the proposal would constitute limited infill within a village and would therefore not be inappropriate development within the Green Belt. Accordingly, there is no need to examine if very special circumstances exist to outweigh any harm arising from inappropriateness.

Conditions

21. I have imposed a time limit condition (1) to comply with Section 91 of the Town and Country Planning Act 1990
22. I have imposed a condition (2) to specify the relevant drawing numbers as this provides certainty.
23. A condition (3) is necessary to ensure that the external materials used for the development are appropriate for the surroundings within which it is set.

24. A condition (4) is necessary to ensure that the development minimises water consumption.
25. A condition (5) is necessary to ensure that an electric car charging point is provided thereby ensuring that the development contributes towards sustainable transport and enhances air quality.
26. It is necessary to impose a condition (6), requiring the provision of bat and bird boxes, in the interests of the biodiversity of the site and surrounding area.
27. A condition (7) requiring approval of external lighting is necessary to limit light pollution and minimise the impacts upon biodiversity and protected species.
28. A condition (8) is necessary to ensure landscaping details are submitted, completed in accordance with the details approved by the local planning authority, and maintained thereafter, thereby protecting and enhancing the landscape character of the area and providing a biodiversity net gain.
29. It is necessary to impose a condition (9) to avoid harm to nesting birds during the bird breeding season.
30. A condition (10) is required to ensure that on-site parking provision is provided in the interest of highway safety.
31. A condition (11) requiring the submission of details of secure cycle parking, their subsequent provision and retention, is necessary to ensure that the development contributes towards sustainable transport.

Conclusion

32. There are no relevant considerations, of sufficient weight, to indicate the application should be determined other than in accordance with the development plan when considered as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed subject to the conditions set out below.

J Gunn

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and details:

Site Location Plan	B114 Rev B
Proposed Site Plan	B110 Rev B
Plot 1 Floorplans and Elevations	B111 Rev B
Plot 2 Floorplans and Elevations	B112 Rev B
Context Elevations	B110 Rev B
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as specified on the application form and approved plans.
4. The dwelling hereby approved shall be designed and constructed to meet the higher National Housing Standard for water consumption of 110 litres per person per day.
5. Before any dwelling hereby approved is first occupied it shall be provided with electric car charging infrastructure comprising, as a minimum, one dedicated 32 amp radial circuit which is directly wired to an appropriate RCD at the consumer unit. The circuit shall terminate at a three-pin socket or BS EN 62196 Type 2 electric vehicle charging point located where it is accessible from a dedicated off-street car parking bay.
6. Before any dwelling hereby approved is first occupied a full scheme for bat and bird boxes, showing specification and locations, shall be submitted to and agreed in writing by the local planning authority. The scheme shall be installed prior to first occupation and retained in accordance with the agreed details thereafter.
7. Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the new dwellings hereby approved are first occupied. The details shall include location, size, design of luminaries and fittings. The approved external lighting plan shall be implemented in accordance with the approved details and thereafter retained. No other external lighting equipment may then be used within the development.
8. No dwelling shall be occupied until there has been submitted to, and approved in writing by the local planning authority, a scheme of landscaping. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

9. Notwithstanding the approved plans/surveys, the existing stable building shall not be demolished between 1 March and 31 August inclusive (bird nesting season) unless it has first been surveyed for nesting birds by a qualified ecologist and, if nesting birds are found, a scheme for the protection of nesting birds has been submitted to and approved in writing by the local planning authority. Once such a scheme has been approved, the demolition within the bird nesting season shall only be carried out in accordance with the approved scheme.
10. The car parking spaces, and access as shown on approved drawings shall be made available prior to first occupation of the dwelling hereby approved and retained in place thereafter.
11. Prior to first occupation of any dwelling hereby approved, details of secure cycle parking shall be submitted to and agreed in writing by the local planning authority. The approved cycle parking shall be installed prior to first occupation and retained thereafter.

END OF SCHEDULE