



Appeal Decision

Site visit made on 5 October 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Appeal Ref: APP/A0665/W/23/3319531

Cuddington House, Chorlton Lane, Cuddington, Malpas SY14 7EW

- 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 Dan Gratton against the decision of Cheshire West and Chester Council.
- The application Ref 22/00144/FUL, dated 14 January 2022, was refused by notice dated 31 January 2023.
- The development proposed is conversion of Pavilion garage and workshop to dwelling.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Dan Gratton against Cheshire West and Chester Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. In the interests of clarity, I rely upon the description as included in the application form for the purposes of the heading above.
4. With the appeal, the appellant put forward that the proposed additional access has been removed from the scheme. However, I am mindful that 'The Procedural Guide to Planning Appeals – England' states that the appeal process should not be used to evolve proposals and if amending the application will overcome the reasons for refusal, a fresh application should be submitted. Moreover, it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested parties' views were sought. I have therefore determined the appeal on the basis of the plans and information that were before the Council when it made its decision and on which parties were consulted.

Main Issues

5. The main issues are:
 - the effect of the proposal on open space, sports and recreational facilities;
 - whether or not the existing buildings are capable of conversion without significant loss of existing fabric, or major or complete reconstruction; and

- the effect of the proposed development on the character and appearance of the host buildings and surrounding area including the Chorlton Lane Conservation Area (CA).

Reasons

Open space, sports and recreational facilities

6. The appeal site forms an enclosed parcel of grassland and is occupied by a cricket pavilion and a separate storage building. It is accessed from Chorlton Lane via a private access track. Although the appeal site is not allocated, the evidence before me demonstrates that the site has previously been used for the playing of cricket and also for private events. This is a matter not in dispute between the Council and the appellant.
7. Policy SOC 6 of the Cheshire West and Chester Local Plan (Part One) (LPP1) seeks to protect, manage and enhance existing open spaces, sport and recreation facilities. Under Policy SOC 6, proposals that improve the quality, quantity and connectivity of accessible open space, sports and recreation facilities will be supported. Policy SOC 6 goes on to state proposals on existing open space, sport and recreation facilities will only be permitted subject to compliance with part A or B. If a proposal complies with either part A or B, it must still accord with part C and further compliance must also be had with either part D or E.
8. Policy DM 36 Cheshire West & Chester Council Local Plan (Part Two) (LPP2) also seeks to avoid development that would result in the loss of, amongst other things, a recreation facility or lapsed or disused playing field, in accordance with the requirements of LPP1 Policy SOC 6.
9. Paragraph 99 of the National Planning Policy Framework (the Framework) sets out exceptions for the redevelopment of open space, sports and recreational buildings and land. Both Policy SOC 6 and DM 36 are consistent with the Framework in this regard. In a similar manner, Sport England's Playing Fields Policy and Guidance (SEPFG) generally opposes the loss of playing field provision, subject to certain exceptions.
10. The proposal would see the loss of the pavilion, storage building and a small area of the field. As it would not provide for a replacement of these buildings or same size area and quality of playing field to an equivalent or better replacement, it would not comply with Part A of Policy SOC 6.
11. There is no disagreement between the main parties that the demand for cricket provision in the area is currently being met such that the land and buildings on site are considered to be surplus for cricket provision. Based on the evidence before me, I find no reason to disagree and consider the proposed scheme would be compliant with Part B.
12. It is the Council's case, supported by the findings of Cheshire West & Chester Playing Pitch Strategy & Action Plan, that demand exists for adult football and rugby league pitches in the local area, and it is considered that the site and buildings could be repurposed to meet one of these needs.
13. Based on the evidence before me and my own observations of the size of the site and facilities within the pavilion and storage building, I find no reason to disagree that the buildings and field could not easily repurposed to

accommodate an alternative undersupplied sporting use or other open space or recreational use. In the absence of any cogent evidence to the contrary, the appeal scheme therefore fails to demonstrate that the appeal site and buildings could not fulfil other unsatisfied open space, sport or recreation needs conflicting with part C of Policy SOC 6.

14. The appellant's case is in essence that the site is in private ownership, and the buildings and field could be used for agricultural purposes without the need for consent. Nonetheless, it should be noted that neither the development plan, the Framework or SEPFG differentiate between ownership types in regard to sports pitches. As such, proposals are still required to demonstrate compliance with the development plan in regard to the development on existing open space, sports and recreation facilities.
15. I acknowledge the appellant's comments with regard to the restrictions on the use of the buildings and site as part of a Lawful Development Certificate. However, the Council have confirmed the land could be used lawfully for adult football and rugby league matches at any time of year for a set number of days. No substantive evidence to the contrary has been put forward, and I find no reason to disagree with the Council in this regard.
16. The appellant has suggested that the use of the site and buildings could revert back to its previous agricultural use, and the field and buildings for sport, open space or other recreational use would be lost. I accept that this is a potential outcome. However, no substantive evidence to demonstrate the land and buildings could easily be reintegrated into agricultural use has been put forward. Similarly, there is no convincing evidence that such a change would satisfy the appellant's other aspirations for the use of the buildings and part of the field as a dwellinghouse. Therefore evidence that there is a greater than theoretical possibility that agricultural changes would be implemented, in the absence of a successful appeal, is not persuasive. Accordingly, this fallback position attracts very limited weight.
17. The appellant has also stated that no alternative sporting interests have come forward seeking to utilise the facilities. However, no evidence has been provided to demonstrate that the facilities have been publicised as being available for use. I therefore attach little weight to this matter.
18. For the reasons given, the proposal would result in the unacceptable loss of open space, sports and recreational facilities. It therefore conflicts with LPP1 Policy SOC 6 and Policy DM 36 of the LPP2, which seek to protect, manage and enhance existing open spaces, sports and recreation facilities. For similar reasons, it would also conflict with the provisions of the Framework and the SEPFG.

Building Conversion

19. The site is located within open countryside outside of any defined settlement boundary. Policy DM 22 of the LPP2 states that in the countryside, proposals for the change of use of buildings to dwellinghouses will only be supported where they meet a number of criteria. One such criterion is that the building is of permanent and substantial construction, and it is suitable for and capable of conversion to residential use without significant loss of existing fabric, or major or complete reconstruction.

20. The explanatory text to Policy DM 22 advises that in determining whether a building is of permanent and substantial construction and suitable for and capable of conversion, the local planning authority will take a number of criteria into account. The first is a structural survey demonstrating the structural integrity of the building and how much of the building can be retained, and drawings indicating how much will be retained. The second is what proportion of the building will need to be replaced and/or re-constructed. Finally, the scheme is required to show the extent of changes that will be made to the fabric of the building, including the number and size of new openings that will need to be created.
21. At the time of my visit, the pavilion appeared to be in a well-maintained condition, albeit some rotting timber was evident. The pavilion appeared to have power, water and washing facilities. The storage building appeared to be less substantial in its construction, with a single timber skin that allowed for visibility of the roof trusses.
22. The appellant has provided a Preliminary Structural Report¹ which indicates the standard of original construction of the buildings on the whole, remains in good condition. However, the Structural Survey makes clear that only a visual inspection took place and that the survey was non-intrusive with no opening up of areas performed. There were also no intrusive ground investigations performed to ascertain the ground conditions or inspect the foundations. Furthermore, there is limited evidence to support the survey's conclusions and it is without the benefit of structural calculations.
23. The submitted drawings show the external changes, including the number and size of new openings that will be created. However, the Structural Survey has not confirmed how much of the building can be retained or provided drawings indicating how much will be retained. Based on my observations and the evidence before me, there would still be a need for some considerable internal and external works to the pavilion and storage building to convert them to a habitable standard. As such, based on the limited evidence before me, I cannot be sure that the buildings are capable of conversion or that these works would not require major reconstruction of the buildings for the intended residential use.
24. In conclusion, the proposed scheme has failed to demonstrate that the buildings are suitable for and capable of conversion to residential use without significant loss of existing fabric or major or complete reconstruction. It would therefore conflict with Policies STRAT 1 and STRAT 9 of the LPP1 and Policy DM 22 of LPP2. These policies, amongst other things, seek development to be of an appropriate scale and design to not harm the character of the countryside or the appearance and character of the original building.

Character and appearance

25. The appeal site is located within the CA. As such, I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing its character or appearance.
26. From my observations, the significance of the CA lies largely in the form, scale, detailing and materials of its historical buildings of different ages and styles

¹ Sean Caddick Architectural, dated: 30 September 2022

with agricultural fields beyond. It has retained its layout and historic form that includes quality historic buildings and traditional farm buildings.

27. The appeal site is located in an area of open countryside. It comprises a rough square-shaped field bordered by a large mature high hedgerow with open fields beyond. The site is currently occupied by a timber cricket pavilion and a detached timber storage building, both of which are single-storey. As a result of the mature hedging and location and size of nearby trees, the buildings are well screened from the surrounding countryside and views from Chorlton Lane.
28. The proposed extension to the pavilion is of a size comparable to the host building and, as such, would significantly increase the size of the existing building whilst also introducing a glazed link to the storage building. Given the modest scale and traditional form of the pavilion, the proposed extension, whilst not subordinate, would nonetheless be in keeping with the existing traditional form of the building. The use of matching materials and sympathetic window and door sizes and positions would assist in the extension respecting the character of the host building protecting the visual amenity of the local area. For similar reasons, the external alterations to the outbuilding would also be in keeping.
29. However, in contrast, to the traditional appearance of the existing buildings, the appeal scheme would introduce a modern glazed link structure. Notwithstanding, the link would largely be screened by the existing boundary hedge, the structure would still be apparent to some degree when looking from the front within the remaining field, and it would appear as a distinctly modern addition. Whilst that means it would be clearly differentiated from the more traditional appearance of the buildings, I nonetheless consider that it would sit somewhat uncomfortably with the traditional design of the buildings because of its materials and its angular form.
30. Furthermore, despite its highly transparent nature, it would erode the sense of separation that is currently found between the outbuilding and the pavilion itself, so adversely affecting the composition on site. This would be more evident from the surrounding countryside during winter months when foliage is not in leaf. The degree of change brought about by the glazed link between the buildings would be small in the context of the character of the site as well as the wider landscape. While noting the limited scale of the link, and the retention of mature planting, I find that there would be harm to the character and appearance of the host buildings and wider area, although the resultant harm would be limited.
31. The proposed access track would be set at ground level and therefore it would not adversely affect the openness of the land. However, the proposed track would be extensive in length, as it crosses the fields for a considerable distance. Although surfaced in hardcore, which is a common material for rural tracks, the track would nonetheless be easily distinguished from the surrounding fields. The appearance of the proposed track would contrast markedly with the patchwork of surrounding fields, which are currently covered in what appeared to be rough grass. Seen from Chorlton Lane, the long track would appear as a visual intrusion in the countryside that would have an unacceptable urbanising effect in this particular location and therefore detract from existing views of the attractive and largely open rural landscape and the intrinsic character of this part of the CA.

32. For the purposes of the Framework, the CA is a designated heritage asset. The proposal would lead to less than substantial harm to the significance of the CA. The Framework indicates that such harm is to be weighed against the public benefits of a proposal. However, great weight should be given to an asset's conservation.
33. Social benefits would arise from the provision and occupation of a single dwelling. It would also provide economic benefits through the provision of jobs during the construction, in the short term, and through supporting local services, facilities and businesses in the longer term. However, given the scale of the appeal scheme, these economic and social benefits would be limited and do not outweigh the identified harms in this case.
34. I acknowledge the appellant's comments with regard to the pavilion being regarded as a non-designated heritage asset (NDHA). However, whilst the pavilion offers some interest to its front elevation, there is no substantive evidence before me, such as a heritage statement, to conclude the building is worthy of NDHA status through its architectural merit or any related historical connection.
35. To conclude therefore on this main issue, the proposal would be harmful to the character and appearance of the existing buildings and the area. It would also fail to preserve or enhance the character or appearance of the CA. As such, it would conflict with LPP1 Policies ENV 5, ENV 6 and STRAT 9 and Policies DM 3, DM 22 and DM 46 of the LPP2. Together these seek, amongst other matters, high quality design that respects local character and preserves heritage assets. It would also be contrary to the Framework, which seeks to ensure that development is sympathetic to local character and preserves heritage assets.
36. Insofar as this main issue is concerned, I do not find conflict with Policy DM 21, which relates to development within the curtilage of a dwellinghouse, which I do not find to be the case here.

Other Matters

37. I have had regard to the supportive comments submitted in regard to the proposed development. However, many of these relate to the noise associated with the existing use of the site. These matters are outside the scope of this appeal and are a matter for the Council. Furthermore, there is no substantive evidence before me that an alternative recreational use could not be accommodated or welcomed on the site.

Conclusion

38. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
39. Therefore, I conclude the appeal should be dismissed.

A Hickey

INSPECTOR