



Appeal Decision

Site visit made on 16 October 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/R0660/W/23/3317932

Land off the Coppice, Poynton SK12 1SP

- 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 Mr Philip Kay against Cheshire East Council.
- The application Ref 22/5036M, is dated 20 December 2022.
- The development proposed is erection of a single detached dwelling (dormer bungalow).

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single detached dwelling (dormer bungalow) at land off the Coppice, Poynton SK12 1SP in accordance with the terms of the application, Ref 22/5036M, dated 20 December 2022, subject to the schedule of conditions set out at the end of this decision.

Preliminary Matters

2. No postcode was provided on the application form or appeal form. I have therefore taken the postcode identified above from the Site Location Plan provided by the appellant.
3. The planning application was submitted in outline with only access to be considered at this stage. Therefore, the matters of appearance, landscaping, layout and scale are for future consideration. The Council has identified that the drawings submitted showing indicative proposals are not consistent with the description of the development as a dormer bungalow. However, given the outline nature of the application, I have treated any information submitted in relation to the reserved matters as illustrative only. The indicative plan before me has therefore not been determinative in my considerations on the main issues in this case.
4. The version of the Neighbourhood Plan referred to me is titled Poynton-with-Worth Neighbourhood Plan 2016-2030 Referendum Version September 2019 (NP). Despite the title, the Council has confirmed that this is the version of the Neighbourhood Plan that was made on 21 November 2019.
5. The Council failed to determine the planning application within the prescribed period. The Council has since provided a report detailing the grounds on which they would have refused the application, had they retained the jurisdiction to do so. The substance of the Council's submission has informed the main issues of the appeal.

Main Issues

6. 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; and
- if the proposal is inappropriate development, whether any 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 is inappropriate development

7. The appeal site is located within the Green Belt. 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 of the Framework goes on to set out that the construction of new buildings is inappropriate in the Green Belt with certain limited exceptions, including exception e), limited infilling in villages.
8. Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030 July 2017 (LP) sets out an approach to Green Belt which largely follows that set out in the Framework and allows limited infilling in villages as an exception.
9. Policy PG10 of the Cheshire East Local Plan Site Allocations and Development Policies Document Adopted December 2022 (SADPD) identifies the approach in 'infill villages' and provides defined village infill boundaries. The policy states that outside of the village infill boundaries, development proposals will not be considered to be limited infilling in villages when applying LP policies PG3 and PG6. There is no dispute between the parties that the appeal site does not fall within a defined village infill boundary as set out in the SADPD.
10. I recognise that paragraph 149 e) of the Framework does not specify that a site must be within a defined village boundary to meet the exception test. However, I acknowledge that the SADPD has been adopted relatively recently and that Policy PG10 was considered through the examination and found to be a sound approach.
11. Nevertheless, the appellant has referred me to established case law set out in *Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195* (the Wood case) as a material consideration relevant to the appeal before me. In this case it was found that the boundary of a village defined in a local plan may not be determinative in considering whether a site is within a village and that regard should also be had to the situation 'on the ground' as well as any relevant policies.
12. The Council, in its written response to this appeal, acknowledges the 'on the ground' assessment approach set out in the Wood case as part of the overarching consideration of whether a site is within a village for the purposes of the Green Belt test. The Council carried out such an assessment and is of the view that the appeal site does not form part of a village.

13. The appeal site comprises a manège along with an area of grassland to the rear. It has frontage onto The Coppice, a private single track road which also forms a Public Right of Way (PRoW), that is accessed from Coppice Road. Mature trees and hedgerows surround the appeal site. Neighbouring dwellings are located to the north, northwest, south and southeast. Outbuildings that serve a neighbouring dwelling are located opposite and are accessed from The Coppice. A range of stable buildings are located adjacent to the north.
14. At my site visit I observed that the appeal site has a clearer visual and physical relationship with the village of Higher Poynton to the east rather than the larger settlement of Poynton to the west.
15. When approaching from both directions, the access onto The Coppice at the junction with Coppice Road appears a part of the village given the density of built form to either side and directly opposite. Further, recent development of infill plots has reinforced the ribbon of development along the southern side of Coppice Road.
16. The Coppice itself forms a PRoW and I noted pedestrians walking along it during my site visit. The PRoW provides a short walking route from the appeal site up to the junction with Coppice Road where there is a separate footpath that provides safe and convenient pedestrian connectivity into the area identified within the defined village infill boundary.
17. Although there are differences in the pattern of development when moving from Coppice Road onto The Coppice, this change from more densely laid out and more prominent built form to a more loose-knit and less dense arrangement contributes to the character of the area. Existing development along the western side of the initial section of The Coppice represents a transition from the edge of the village towards the countryside beyond. The appeal site is located between dwellings within this initial section of built form along the western side of The Coppice and therefore, whilst I accept it is towards the edge of the village, I am satisfied that it is spatially located within it.
18. Whilst the built form along this side of The Coppice is set back and partially screened by vegetation, the existing development is visually identifiable due to the more domestic boundary treatments in the form of close boarded fences, gateways and manicured hedging. Filtered views of built form are visible through and above the boundary treatments. Therefore, when looking at both the spatial pattern of development as well as visual considerations the appeal site is located in a village for the purposes of the Framework test.
19. There is no definition of 'limited infilling' within the Framework. However, Policy PG10 of the SADPD defines it as the development of a relatively small gap between existing buildings. Whilst I accept the location of built form is set back at varying distances from The Coppice, there are still existing buildings located to the north and south of the appeal site.
20. The width of the plot along the frontage would be largely comparable with the other individual plots along the initial section of The Coppice so it would appear in keeping in this regard. I have been referred to two other appeal decisions identified as Birch Trees Farm and land adjoining Coppice Road, both within a short walk of the appeal site. In both of these cases my Inspector colleagues found that the sites did represent limited infilling in a village. The proposal is

for one dwelling and therefore is limited in its proposed scale of development. Consequently, I conclude that the proposal would constitute limited infilling.

21. The proposed development would not accord with Policy PG10 of the SADPD as it would be located outside of the village infill boundary for Higher Poynton. However, as stated above, the Wood case is a material consideration and when taking this into account in the specific circumstances of this case, I find that the appeal site would be located in a village for the purposes of the Framework test. The proposal would accord with Policy PG10 in so far as the proposal would meet the definition of limited infill.
22. I therefore find that the proposal would not be inappropriate development in the Green Belt. The proposal would comply with the overarching aims of the Green Belt principles set out in Policy PG3 and despite the limited conflict with Policy PG10 of the SADPD, the proposal, when considering the development plan as a whole, would not be inappropriate development. The proposal would also comply with paragraph 149 e) of the Framework in this regard.

Openness

23. Under Policy PG3 of the LP and exception 149 e) of the Framework, openness is not expressly stated as a determinative factor in gauging inappropriateness, therefore, there is no requirement to assess the impact of the development on the openness of the Green Belt.

Other considerations

24. Given I have found that the proposal would not be inappropriate development it is not necessary for me to have regard to any other considerations advanced to weigh against Green Belt harm.

Other Matters

25. The Council has identified that they have a five year housing land supply in place and that site allocations set out in the development plan will meet the housing requirements for the area. Be that as it may, the five year housing land supply figure is not a target and the proposal would not result in a significant oversupply of housing land.
26. Concerns are raised by an Interested Party over the effect of the proposal on the character and appearance of the area, based on the illustrative drawings submitted and the lack of further information by way of a proposed site layout plan. Given the outline nature of the application, the details of appearance, landscaping, layout and scale are for future consideration. I am satisfied that the appeal site is of a sufficient size that a scheme for one dwelling as described in the banner heading, including appropriate landscaping, could be designed to respect the lower density of built form and the character and appearance of the area.
27. There are a group of trees located to the south of the appeal site as well as established hedgerows around the boundaries, which the Council has confirmed are not subject to any statutory designation. However, they do contribute positively to the verdant character of the area. Nevertheless, there is a significant open area within the appeal site that could be developed without having a detrimental impact on existing trees and hedgerows, due to the separation distances that could be maintained. I am satisfied that conditions

- could be imposed to require arboricultural information to be submitted to ensure that existing trees can be protected and integrated into the scheme.
28. It is also raised that there was a discrepancy in the appellant's description of the locality of the appeal site in relation to Poynton. However, having visited the appeal site and the surrounding area and reviewing the locational information provided in Appendix E of the appellant's Planning Appeal Statement, I am satisfied that I understand the relationship of the appeal site with the settlements.
29. Concerns about highway safety in relation to the width of The Coppice, the visibility at the junction with Coppice Road, the use of the private road as a PRow and the lack of streetlighting are also raised. However, the Highway Authority were consulted on the application and raised no objection on highway safety grounds, nor did the Council.
30. The red line boundary provided does not extend to the public highway. However, the appellant's Planning Appeal Statement confirms at paragraph 2.2 that the appeal site would be accessed via The Coppice which runs along the eastern boundary of the site. Whilst the vehicular entry point into the appeal site is not identified specifically, I am satisfied based on the information before me that a suitable access into the appeal site could be achieved. Given the overall size of the site I am also content that there would be space for sufficient off street parking and turning facilities.
31. The access from The Coppice onto Coppice Road is existing as is the use of The Coppice as a vehicular access for a small number of existing dwellings along with being a PRow. There is no substantive evidence before me that suggests the addition of one dwelling would alter the situation to the extent that it would be likely to be harmful to highway or pedestrian safety. Further clarification on the access point and on-site parking and turning details could be secured by planning condition.
32. Concerns are also raised about the accessibility of services and facilities for future occupiers and the potential for reliance on the private car. The Council did not identify the location of the appeal site in relation to services and facilities as a reason that it would have refused the application. Whilst on site I noticed that bus stops are located within a short walk of the appeal site on Coppice Road, albeit I have not been provided with information on how regular the local bus service is.
33. The separate footpath that runs along Coppice Road towards the east allows for convenient pedestrian links to the services and facilities within the settlement of Higher Poynton. A walk from the appeal site to the church, public house and café located on Shrigley Road North took me approximately 10 minutes during my site visit. I recognise that there is a separate footpath along Coppice Road to the west which runs all the way to Park Lane in the adjacent larger settlement of Poynton where there are a wider range of services and facilities. Whilst I accept that this area would take longer to walk to and therefore future occupiers would be likely to utilise the private car given the distance, any journeys by private car would be limited in distance. Overall, I am satisfied that the appeal site has sufficient scope to access some services and facilities by travel modes other than the car.

34. A Preliminary Ecological Appraisal was submitted in support of the application. The Council states that subject to conditions relating to the protection of wildlife and biodiversity enhancement, that the proposal would be acceptable in this regard. I have no substantive evidence before me to suggest that I should take a different stance to the Council on this matter.
35. The appeal site is located within a former mining area. A Coal Mining Risk Assessment (CMRA) was submitted with the planning application which recommends intrusive ground investigations are carried out to determine the geological and mining setting beneath the development site, which would then inform a detailed ground stability mining risk assessment. This would enable any appropriate remediation or mitigation measures required to be identified and carried out. The CMRA also confirms that a permit is required from the Coal Authority prior to any works being carried out. I am satisfied that the requirement for the intrusive investigations can be dealt with by condition.
36. I appreciate that there are concerns relating to the possibility that the development could affect flood risk in terms of additional surface water run off. The appellant has stated that the appeal site is in Flood Risk Zone 1 and the Council has raised no objections in this regard. I have no substantive evidence that the proposal would result in an increased risk of flooding.
37. Concerns are also raised about the ability of the existing infrastructure, including the electricity supply and sewers to cope with existing and further development. United Utilities were consulted on the planning application and raised no objections. I have no evidence before me that suggests that the proposal would result in an increased demand in these respects that could not be appropriately accommodated.
38. Policies MP1, SD1 and SD2 of the LP are also referred to in the Council's putative reason for refusal along with Policy HOU3 of the NP. However, these policies do not relate to the main issue of the principle of development within the Green Belt and are therefore not directly relevant.

Conditions

39. The Council has provided a list of suggested conditions, should the appeal be allowed. I have considered the suggested conditions and amended, reordered and removed duplication as necessary in the interests of precision and clarity, as well as to comply with the Framework and the advice set out in the Planning Practice Guidance (PPG).
40. In addition to the standard conditions relating to reserved matters being required to be submitted and timeframes for the submission of those details and the commencement of development, I have imposed a condition specifying the approved plan in the interests of clarity. The site location plan does not have a drawing number, so I have described it.
41. I have imposed a condition requiring a further badger survey to be carried out prior to the commencement of development, to ensure that there have been no changes on site in respect of badger activity. I also attach a condition to ensure the development is carried out in accordance with the Reasonable Avoidance Measures in relation to Great Crested Newts as set out in the submitted Preliminary Ecological Appraisal. A condition is also attached to ensure that nesting birds are not disturbed during the clearance of vegetation. I have

removed reference to the removal or conversion of buildings as this is not relevant in this case. I have imposed a condition requiring a biodiversity enhancement strategy to be submitted prior to the commencement of development. These conditions are necessary in order to protect wildlife and enhance biodiversity.

42. A condition requiring an access and parking scheme to be submitted and approved prior to the commencement of development is necessary to ensure that a suitable vehicle access point and parking and turning area is provided and retained in the interests of highway and pedestrian safety.
43. Conditions relating to past coal mining investigations and contamination are necessary to protect the living conditions of future occupiers.
44. I have imposed a condition relating to arboricultural information required for consideration at reserved matters stage, which is necessary in the interests of the retention of habitats and green infrastructure. I have combined two suggested conditions put forward by the Council in this regard in the interests of precision.

Conclusion

45. For the reasons set out above, I conclude that the appeal should be allowed subject to the schedule of conditions set out below.

G Dring

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Lambert Smith Hampton Site Location Plan 1:1,250.
- 5) Prior to the commencement of development an updated badger survey undertaken by a suitably experienced person must be completed and a report submitted to and approved in writing by the local planning authority. The report shall include mitigation and compensation measures where necessary. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of development, a strategy for the incorporation of features to enhance the biodiversity value of the development shall be submitted to and agreed in writing with the local planning authority. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrows and roosting bats, gaps in garden fences to facilitate the movement of hedgehogs and the provision of native species planting. The development shall be carried out in accordance with the approved strategy and retained thereafter.
- 7) No development shall commence until a scheme identifying the vehicle access point, driveway, parking and turning area within the site have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the vehicle access point, driveway, parking and turning area have been laid out on site in accordance with the approved scheme. The access, driveway, parking and turning scheme shall be retained thereafter.
- 8) No development shall commence until details of:
 - a) A scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity and;
 - b) Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development.

The findings of the investigations and details of any required remediation works shall be submitted to and approved in writing by the local planning

authority prior to the commencement of development. The development shall be carried out in accordance with the approved details and confirmation of the completion of any required remedial works shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development.

- 9) No development (other than site clearance works) shall commence until:
- a) A proportionate risk assessment and (if appropriate) a site sampling exercise is undertaken to address the risks posed by land contamination and ground gas. This should be submitted in writing to and approved by the local planning authority.
 - b) Should the risk assessment or site sampling exercise indicate that remediation is necessary, a Remediation Strategy shall be submitted to and approved in writing by the local planning authority.

The remedial scheme shall be carried out in accordance with the approved Remediation Strategy.

- 10) If during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the local planning authority as soon as reasonably practicable (but within a maximum of 5 days of finding it). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme to be submitted and agreed in writing with the local planning authority.
- 11) No part of the development hereby approved shall be occupied prior to the submission and approval in writing of a Verification Report prepared in accordance with the approved Remediation Strategy that covers that part of the development to be occupied or used.
- 12) Any soil or soil forming materials to be brought on to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use in line with the current version of 'Developing Land within Cheshire East Council – A Guide to Submitting Planning Applications, Land Contamination' (in the absence of any other agreement for the development). Prior to occupation, evidence and verification information (for example quantity/source of material, laboratory certificates, depth measurements, photographs) shall be submitted to and approved in writing by the local planning authority.
- 13) No removal of any vegetation shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests are found in any hedgerow, tree, scrub or other habitat to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the local planning authority before any further works within the exclusion zone take place.
- 14) The future reserved matters application shall provide a scheme for the retention and safeguarding of existing trees and be supported by a detailed Arboricultural Impact Assessment, Tree Protection Plan and where appropriate an Arboricultural Method Statement in accordance with BS 5837: 2012.

- 15) The development shall be carried out in accordance with the Great Crested Newt Reasonable Avoidance Measures detailed in section 4.7 of the submitted Preliminary Ecological Appraisal prepared by Pennine Ecological dated February 2023.