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# Appeal Decision

Hearing held on 6 February 2024

Site visit made on 6 February 2024

**by N Praine BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 March 2024**

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## **Appeal Ref: APP/R0660/W/23/3330160**

### **Knolls Barn, Knutsford Road, Knolls Green, Mobberley WA16 7BN**

- 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 Hill against the decision of Cheshire East Council.
  - The application Ref 23/0371M, dated 28 January 2023, was refused by notice dated 27 March 2023.
  - The development proposed is described as the demolition of existing metal clad storage barn, erection of single dwelling (designed and constructed as a self-build project); together with associated external works and landscaping.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the demolition of existing metal clad storage barn, erection of single dwelling (designed and constructed as a self-build project); together with associated external works and landscaping at Knolls Barn, Knutsford Road, Knolls Green, Mobberley WA16 7BN in accordance with the terms of the application, Ref 23/0371M, dated 28 January 2023, subject to the schedule of conditions set out at the end of this decision.

### **Preliminary Matters**

2. The emerging Mobberley Neighbourhood Plan ("the Neighbourhood Plan") was discussed at the Hearing. However, this document is at an early stage and while a design code has been posted on the Mobberley Parish Council website, the Neighbourhood Plan has not been fully drafted or consulted on.
3. Therefore, the Neighbourhood Plan has not been through independent examination and a referendum is a considerable way off. As a result, it attracts very limited weight as a material consideration for the purposes of this appeal.
4. Conservation Area Consent was previously required to demolish unlisted buildings in Conservation Areas. However, since 2013 this is no longer required<sup>1</sup>. Instead, planning permission is required for "relevant demolition", which includes unlisted buildings in Conservation Areas.
5. The appellant has applied for planning permission which includes the demolition works, it was agreed at the Hearing to refer to the development as set out in the banner heading above.

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<sup>1</sup> <https://historicengland.org.uk/advice/planning/consents/conservationareaconsent/>

## **Main Issue**

6. The main issue is 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.

## **Reasons**

7. The appeal site is located within the Green Belt. Paragraph 152 of the Framework identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework states that the construction of new buildings would be inappropriate in the Green Belt. However, sub-paragraph e) of paragraph 154 identifies limited infilling in villages as an exception to this.
8. Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030 (2017) (“the Local Plan”) follows a similar approach and is consistent with the Framework in this regard. Policy PG10 of the Cheshire East Local Plan Site Allocations and Development Policies Document (2022) (“the SADPD”) lists settlements and rural areas which are defined as infill villages. These infill villages have a defined village infill boundary.
9. The appeal site is not included in this list and section 4 of Policy PG10 states that outside of the village infill boundaries, development proposals will not be considered to be ‘limited infilling in villages’ when applying Local Plan policies PG3 and PG6.
10. The SADPD was adopted in 2022 and there is no significant evidence before me to suggest that its policies are not relevant to the appeal or that they should be given reduced weight. The appeal proposal is therefore contrary to the approach set out in the development plan for limited infilling in villages.
11. The appeal site falls within the Mobberley Conservation Area (“the CA”) notable for its 17th and 18th century buildings offset by farmhouses and cottages. Knolls Green is also identified in the Mobberley Conservation Area Appraisal (“the CA Appraisal”). The CA Appraisal lists Knolls Green as comprising Faulkners Lane and the Methodist Church as well as the Bird in Hand public house<sup>2</sup>.
12. Knolls Green comprises broadly linear ribbon style development focussed principally along Knutsford Road. There is considerable diversity in building footprints, plot sizes and physical appearance. The appeal site forms part of a cluster of buildings, including the Bird in Hand public house and associated car park. At Knolls Green there is also a telephone box and Royal Mail post box.
13. As one travels away from the appeal site, along the Knutsford Road toward Faulkners Lane, residential dwellings and their associated gardens front onto the road. Bus stops and an uninterrupted public footpath also provide connectivity toward Faulkners Lane and beyond to the centre of Mobberley.
14. Faulkners Lane is a short distance from the appeal site, it also features dwellings which front onto the highway down to the Mobberley Methodist Church. The Council approved a planning application in 2019 opposite this

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<sup>2</sup> Paragraphs 6.5.1 to 6.5.4

- church<sup>3</sup>. In considering this application, this other site was found to be within a village.
15. Taking all circumstances together, the appeal site has a visual and physical relationship with the surrounding village. Therefore, the appeal site, when experienced on the ground, falls inside the village for the purposes of considering exceptions under paragraph 154 e) of the Framework.
  16. 'Limited infilling' is not defined within the Framework. Policy PG10 of the SADPD defines it as the development of a relatively small gap between existing buildings. The existing buildings follow the curvature of Knutsford Road, the appeal site is closely surrounded by existing buildings to three of its four sides and would occupy a relatively small gap between these existing buildings.
  17. The size of the development would be commensurate with the plot and surrounding buildings. Taking all these factors into account the proposed development would fall within the provision of 'limited infilling'.
  18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Mindful of this, Policy PG10 of the SADPD carries great weight.
  19. I note the established case law as set out in Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195 ("the Wood case"). The Wood case identified that the boundary of a village defined in a plan may not be determinative and therefore, when considering whether a settlement is a village, a decision maker should have regard to the situation "on the ground" as well as any relevant policies.
  20. In this case, given the circumstances of the appeal site and its surroundings when applying the 'on the ground judgment', I conclude the appeal site does form part of a village. This consideration carries weight which justifies the conflict with the relevant policies of the development plan regarding infilling within the villages.
  21. Both parties draw my attention to several appeal decisions. These decisions address Policy PG10 and the Wood case but they differ in how much weight is given in each consideration with contrasted outcomes. This variation shows that each case must be considered on its own unique circumstances and the context of each case as a matter of planning judgment. I have therefore considered the appeal in this regard based on the unique circumstances of the case before me.
  22. The proposed development would conflict with Policy PG10 of the SADPD for the reasons set out. However, I have found that it would result in limited infilling in the village and therefore it would accord with the relevant provisions of Policy PG3 of the Local Plan and with the exception set out in paragraph 154 e) of the Framework. The proposed development would not be inappropriate development within the Green Belt having regard to the Framework and the development plan as a whole.

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<sup>3</sup> Application Ref: 19/2109M Land Adjacent To Wesley, Faulkners Lane, Mobberley

23. As the proposed development would not amount to inappropriate development, there is no need for me to consider paragraph 154 g) of the Framework, assess other considerations, or whether very special circumstances exist.

### **Other Matters**

24. Adjacent to the site lies Grange Farmhouse a Grade II listed building. This two-storey building is recorded as late 17th century with a late 18th century addition. Its historical fabric and setting contribute positively to the significance of this heritage asset.

25. The appeal site is also within the boundary of the CA. The significance of this part of the CA is defined, in part, by its 17th century and 18th century buildings offset by farmhouses and cottages. Despite the buildings, there is also a pleasant rural character to this part of the CA which contributes positively to its significance.

26. The proposed materials would respond to the local area and such materials could be controlled via planning conditions. Appropriate space is retained around the building and the design is also reflective of the local vernacular incorporating traditional roof forms with modern detailing.

27. The Council do not object to the proposed development on the basis of any harm to the CA or the setting of the listed building and, I find no reason to conclude differently. The setting of the listed building and the character or appearance of the CA would therefore be preserved.

28. The Council and interested parties raise concern regarding future buildings being erected to artificially create small gaps between existing buildings or the allowing of this appeal may encourage other residents to submit similar applications in the Green Belt. However, any future planning applications or breaches of planning control would need to be considered on their own merits at that point in time. I have considered this appeal based on its own specific circumstances as set out above.

29. While there was no dispute that the Council is currently meeting its housing targets, there is no evidence before me to suggest housing targets are an upper limit on housing development. This therefore has limited bearing on my overall findings.

### **Conditions**

30. I have had regard to the conditions suggested by the Council and, where appropriate, amended the recommended wording in accordance with national Planning Practice Guidance<sup>4</sup>. The appellant has also confirmed their acceptance of the pre-commencement conditions, provided they meet the relevant tests<sup>5</sup>.

31. I have imposed the standard commencement condition and one specifying the approved plans for the sake of certainty. Conditions to agree materials and details of doors and windows are also required in the interests of the character and appearance of the area, and heritage assets.

32. Conditions to protect neighbouring living conditions are necessary through the control of windows. A condition to agree levels has also been applied in the

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<sup>4</sup> Paragraph: 003 Reference ID: 21a-003-20190723

<sup>5</sup> See Paragraph 56 of the National Planning Policy Framework

interests of both the character and appearance of the area, and to protect neighbouring living conditions.

33. I have imposed a condition relating to landscaping of the development and protection of trees in the interests of the character and appearance of the area and biodiversity. Conditions are also necessary to ensure appropriate drainage, waste management and cycle storage for the site and to safeguard and enhance biodiversity.
34. While not included in the Council's draft conditions, a condition to restrict rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 for boundary treatments, was discussed at the Hearing. Given the existing character of the appeal site and the identified heritage assets, a condition to restrict boundary treatments at the appeal site is necessary.
35. Conditions in respect of land contamination are relevant given the history of this site and the proposed sensitive use for human occupation. A condition requiring a proportionate risk assessment is necessary to establish the level of risk posed. Appropriate remediation, in the event of contamination being discovered and verification are necessary to ensure the development would be suitable for the proposed sensitive use.
36. A further condition has also been imposed to ensure that in the event of the discovery of any further contamination, appropriate measures can be taken to protect surrounding and future occupiers.

### **Conclusion**

37. For the above reasons, having regard to the development plan as a whole and all other relevant considerations, the appeal is allowed.

*N Praine*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mrs Gemma Hill, BA, MArch, RIBA - Appellant  
Mr Colin Williams, BA Hons, MCD, DBA, MRTPI – Agent, The Planning Studio

### FOR THE LOCAL PLANNING AUTHORITY:

Fiona Reynolds - Senior Planning Officer

### INTERESTED PARTIES (denoting those persons who took part in the hearing and whose names were recorded):

Mrs Lynda Kirk  
Mr Ronald Adshead  
Mr Timothy Mallon  
Mrs Jenny Mallon

## **DOCUMENTS SUBMITTED DURING THE HEARING:**

HD1. Appeal Reference: APP/R0660/W/23/3317932 dated 19 December 2023 at Land off the Coppice, Poynton SK12 1SP.

**Appeal Ref: APP/R0660/W/23/3330160**  
**Knolls Barn, Knutsford Road, Knolls Green, Mobberley WA16 7BN**

**Schedule of conditions attached to planning permission (20 in total)**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, except where varied by other conditions of this decision:

Existing Site Plan 0100\_02\_003 P3  
Existing Site Plan 0100\_02\_002 P3  
Existing Floor Plans 0100\_03\_100 P3  
Existing Elevations 0100\_05\_200 P3  
Proposed Site Ground Floor Plan 0100\_02\_00G P3  
Proposed Ground Floor Plan 0100\_02\_00G P6  
Proposed Site First Floor Plan 0100\_02\_001 P6  
Proposed First Floor Plan 0100\_03\_001 P6  
Proposed Elevations 010005\_100 P6  
Landscape GA 298\_LYR\_XX\_ZZ\_DWG\_L\_1001 A  
Existing / Proposed Overlay Site Plan 0100\_02\_004 P6  
Elevations : Existing/Proposed Context Elevations 0100\_05\_001 P06  
Elevations : Existing/Proposed Context Elevations 0100\_05\_002 P06  
Elevations : Existing/Proposed Context Elevations 0100\_05\_003 P06

- 3) No above ground development shall commence until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) No development shall take place until the following information has been submitted to and approved in writing by the Local planning authority:
  - i) A site survey showing: the datum used to calibrate the site levels; ground levels across the site at regular intervals and existing slab levels.
  - ii) Full details of the proposed ground levels and proposed floor slab.

The development shall be carried out in accordance with the approved details.

- 5) Prior to installation of external doors and windows, details of the external doors and windows including colour to be used in the development shall be submitted to and approved in writing by the Local planning authority. All fenestration shall be set behind a reveal of a minimum of 75mm from the

external face of the building. Development shall be carried out in accordance with the approved details.

- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), no windows / dormer windows other than those expressly authorised by this permission shall be constructed.
- 7) The building hereby permitted shall not be occupied until the first-floor side rooflights in the east facing elevation, facing All Winds, have been fitted with obscured glazing to a minimum of level 3 scale of obscuration, and no part of those rooflights that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the rooflights shall be retained in accordance with this condition thereafter.
- 8) The development hereby permitted shall not be occupied until full details of both hard and soft landscaping has been submitted to and approved in writing by the Local planning authority. Where appropriate, these details shall include proposed finished ground levels; hard surfacing materials; details of boundary treatments and any minor artefacts and structures. The landscaping scheme shall also include details of planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
- 9) The approved landscaping details shall be completed in accordance with the following:-
  - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local planning authority.
  - b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
  - c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)
  - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously

diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

- 10) No development shall take place until full details of the proposed foul and surface water drainage from the site has been submitted to and approved in writing by the Local planning authority. The approved details shall thereafter be implemented in full before the building is first occupied and thereafter maintained in accordance with the approved details.
- 11) The development hereby permitted shall not be occupied until associated facilities for the storage of refuse and waste, including recyclables, have been submitted to and approved in the writing by the Local planning authority. The approved details shall thereafter be implemented in full before the building is first occupied and thereafter maintained in accordance with the approved details.
- 12) The development hereby permitted shall not be occupied until details of secure, covered cycle storage for a minimum of one cycle have been submitted to and approved in writing by the Local planning authority. The approved details shall thereafter be implemented in full before the building is first occupied and thereafter maintained in accordance with the approved details.
- 13) No removal of any vegetation or the demolition or conversion of buildings 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 building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), 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 taking place.
- 14) No above ground development shall commence until the applicant has submitted a strategy for the incorporation of features to enhance the biodiversity value of the proposed development. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow and roosting bats (any external lighting should avoid direct light spill upon bat roost features), and native species planting. The approved details shall thereafter be implemented in full before the building is first occupied and thereafter maintained in accordance with the approved details.
- 15) a) Any soil or soil forming materials to be brought 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), which can be

found on the Development and Contaminated Land page of Cheshire East Council's website.

b) 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.

16) No development (other than demolition and site clearance works) shall commence until:

a) A proportionate risk assessment and (if appropriate) site sampling exercise is undertaken to address the risks posed by land contamination is submitted to and approved in writing by the Local planning authority.

b) Should the above indicate that remediation is necessary, a Remediation Strategy shall also be submitted to and approved in writing by the Local planning authority.

All remediation shall be carried out in accordance with the approved Remediation Strategy.

17) No part of the development hereby approved shall be occupied until a Verification Report prepared in accordance with the approved Remediation Strategy has been submitted to and approved in writing by the Local planning authority.

18) 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 from the find). 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 also agreed in writing by the Local planning authority. The approved remediation scheme shall be carried out before the development is resumed.

19) (a) No development or other operations shall take place except in complete accordance with the tree protection measures, identified in the Arboricultural Impact Assessment and Method Statement (AIA.13506.01) and Tree Protection Plan (TPP.13506) dated 9/8/2022 with measures to be implemented in accordance with BS 5837:2012 Trees in relation to design, demolition and construction. – Recommendations.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or

widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local planning authority.

20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of the approved development, other than those expressly authorised by this permission.

## **End of Schedule**