



Appeal Decision

Site visit made on 11 March 2024

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2024

Appeal Ref: APP/A0665/W/23/3332932

Chestnut Farmhouse, Tarvin Road, Frodsham WA6 6XN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Chris Droogan against the decision of Cheshire West and Chester Council.
 - The application Ref is 22/00847/FUL.
 - The development proposed is change of use of building to detached dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of building to detached dwellinghouse at Chestnut Farmhouse, Tarvin Road, Frodsham WA6 6XN in accordance with the terms of the application, Ref 22/00847/FUL, subject to the conditions in the attached schedule below.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2023 and is therefore a material consideration. Whilst the relevant sections of the new Framework have not changed in respect of the main issues of concern in this appeal, the paragraph numbering has changed. Accordingly, I have referred to the updated Framework paragraph numbering.
3. During the course of the consideration of the planning application amended plans were received. This included a revised red line plan showing that vehicular access to the proposed dwelling would be from Tarvin Road, shared with Chestnut Farmhouse, as opposed to having access from Chestnut Lane. Also, a revised ground floor plan shows that there would be two parking spaces provided within an integral garage and utility space. I have therefore considered the appeal proposal on the basis of the amended plans.

Main Issue

4. The main issue is whether the site represents a suitable location for a dwelling, having regard to development plan policy and the Framework.

Reasons

5. The appeal building is a large, detached, L-shaped building within the grounds of Chestnut Farmhouse. It is a relatively modern, brick building with pitched tiled roof, built as a double garage and tractor and hay store. The site and its surroundings are within the countryside, washed over by the Green Belt.
6. Policy STRAT 1 of the Cheshire West and Chester Local Plan (Part One: Strategic Policies) (LPSP) promotes sustainable development. Amongst other

matters, it sets out that new housing should be located with good accessibility to existing or proposed local shops, community facilities and primary schools and with good connections to public transport. Policy STRAT 1 also encourages the use and redevelopment of previously developed land and buildings in sustainable locations that are not of high environmental value.

7. Policy STRAT 9 of the LPSP sets out that the intrinsic character and beauty of the Cheshire countryside will be protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. This policy sets out that the reuse of existing rural buildings, particularly for economic purposes, where buildings are of permanent construction and can be reused without major reconstruction is one of several forms of development permitted within the countryside, provided it is of an appropriate scale and does not harm the character of the countryside.
8. The explanation text of Policy STRAT 9 references the Framework, noting that it includes exceptions for certain development in the Green Belt, providing they preserve the openness of land and purposes of including it within the Green Belt. Included within such exceptions is the re-use of buildings that are of permanent and substantial construction.
9. The proposal is for the re-use of an existing building in the rural area that is permanent and of substantial construction. Even though the use proposed is not for economic purposes, Policy STRAT 9 does not specifically exclude residential use. The proposal would result in a dwellinghouse of appropriate and comparable scale to Chestnut Farmhouse. Also, the proposed works to convert the building to a dwellinghouse, and use of the land around it, as associated garden, and parking, would not significantly alter the appearance of the building and land, as such the proposal would not harm the character of the countryside.
10. Policy DM 22 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (LADP) relates to the change of use to dwellinghouses and residential conversions. It sets out that in the countryside, outside of identified settlements, proposals for the change of use of buildings to dwellinghouses will only be supported where the five criteria within the policy are met. Also, in the Green Belt it requires development proposals to accord with Green Belt policy set out in the Framework.
11. Having regard to the five criteria in Policy DM 22 of the LADP, the appeal building is of permanent and substantial construction and is suitable for and capable of conversion to residential use without significant loss of fabric, or major or complete reconstruction. The appearance of the building would remain essentially as existing, with no reconstruction works required to the main fabric. Existing openings would be reused and/or altered in size and some additional rooflights are proposed in two of the roof slopes, plus a new bullseye window at first floor level in the south side elevation.
12. The existing building does not have a harmful visual impact and so its retention would not lead to any further visual harm to the surrounding area. Also, the proposed conversion would enhance the immediate setting, in that it would ensure the area surrounding the building is maintained, including the areas of hardstanding to be used for parking and existing landscaping along the site boundaries. Furthermore, the closure of the Chestnut Lane access would enable enhancement of the rural character along this part of the lane.

13. The building is immediately adjacent to Chestnut Farmhouse and continuing along Chestnut Lane there are further residential properties toward the end of the lane. Therefore, whilst there are some commercial properties on the land and buildings on the opposite corner of Chestnut Lane and Tarvin Road and agricultural use in surrounding fields, the proposed residential use of the appeal building would not be in conflict with existing uses within the locality.
14. Most of the appeal building has previously been used for storage purposes, in association with the dual residential and agricultural use of Chestnut Farmhouse and land, as per the original planning permission for the building. Also, from the evidence provided and my observations, whilst part of the building has been used as a one bedroom residential unit for the appellant's daughter, it is now and has been vacant for some time.
15. At the time of my visit the majority of the building was empty and unoccupied and it is not currently being used for the storage of tractors, hay, or any domestic paraphernalia. I appreciate that at the time of the Council's case officer visit the building was still in use, with the storage of domestic paraphernalia including a snooker table, sofas, and other items. However, the only storage I observed within the building was in a small part of one space within the upper floor area, indicated as bed 3 on the proposed first floor plans, which included the storage of several boxed windows. Given the total floor area of the building this is a negligible area used as storage. Also, whilst the fitted kitchen of the flat was still in situ, this was notably no longer in use.
16. Therefore, in view of the evidence provided and my observations I consider that the building is currently redundant and disused, even when having regard to the nature of the most recent use, when the most recent use ceased and, the potential reason such use/s ceased.
17. The explanation text of Policy DM 22 of the LADP sets out that outbuildings in residential gardens will seldom be considered sufficiently redundant or disused to outweigh the general approach of the Local Plan to locate new housing in identified sustainable locations. However, the original permitted use of the appeal building was a dual use, associated with the agricultural and residential use at Chestnut Farmhouse and not an outbuilding within a residential garden. Also, that residential outbuildings are seldom considered to be redundant does not preclude this from being the case in certain circumstances. Therefore, as the appeal building is no longer in use, I thereby find that criterion 1 of Policy DM 22 is satisfied in this instance.
18. Whilst the building is within the Green Belt, the Framework sets out that certain forms of development are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. The re-use of buildings, as proposed, is identified as not inappropriate provided the buildings are of permanent and substantial construction. As noted above, the appeal building is of permanent and substantial construction and subject to restricting further development within the curtilage of the proposed dwelling, the land around the existing building would be kept open.
19. Furthermore, in having regard to the fundamental aims of Green Belt policy and the purposes of the Green Belt, as set out in paragraph 143 of the Framework, the proposal would not result in urban sprawl, the merging of neighbouring towns, further encroachment into the countryside, it would

preserve the setting and special character of historic towns and would not discourage the recycling of derelict and other urban land. Therefore, having regard to such and due to the nature and design of the proposed development, it would not be inappropriate development in the Green Belt, nor would it set an unacceptable precedent for buildings within the countryside.

20. As I have found that the proposal would meet the criteria of Policy DM 22 of the LADP, it is not necessary to demonstrate that the proposed dwelling would be in a sustainable location. However, I note from the evidence and my observations that the commercial buildings on the opposite corner of Chestnut Lane and Tarvin Road provide some local facilities and services, including a bakery and children's nursery.
21. The Council officer's report refers to two appeal decisions whereby the issues of the suitability of the conversion of domestic outbuildings in the rural area was considered. Whilst I have not been provided with any substantive details regarding these appeal decisions to allow full comparison, I have considered the proposal on its individual merits and found that the building is currently disused and that the proposal would not undermine the rural character and appearance. Also, as the proposal would meet the criteria of Policy DM 22 of the LADP it would not undermine the plan led approach to housing growth.
22. I conclude that the site represents a suitable location for a dwelling, having regard to development plan policy and the Framework, as it would comprise the change of use of a building within the countryside which meets the criteria in Policy DM 22 of the LPDP. Also, the proposal would not conflict with Policy STRAT 9 of the LPSP or the Framework, as it is for the reuse of an existing rural building and the building is of permanent construction and can be reused without major reconstruction and so, is appropriate development in the Green Belt. Consequently, as there is no conflict with Policy DM 22 of the LPDP and Policy STRAT 9 of the LPSP, the proposal would comply with Policy R1 of the LPDP and STRAT 8 of the LPSP in terms of development proposals in the rural area as an appropriate exception.
23. The proposed dwellinghouse is outside a settlement in the countryside, which is not a wholly sustainable location where it would minimise the need to travel and be accessible to local services, as promoted by Policies STRAT 1 and STRAT 10 of the LPSP. However, Policy STRAT 1 also encourages the use and redevelopment of previously developed land and buildings in sustainable locations that are not of high environmental value. Furthermore, Policy DM 22 allows the change of use to dwellinghouses in the countryside, even if it is in an unsustainable location.

Other Matters

24. The proposed dwellinghouse would be sufficient distance away from nearby residential properties, so as not to cause any harm to the living conditions of any occupiers of such properties. Also, the use of the appeal premises as one residential dwelling would not be significantly at variance to the existing use of the land and building, as incidental to the residential use of Chestnut Farmhouse. Therefore, the proposal would not create additional undue disturbance to nearby occupants.
25. The amended plans show that vehicular access to the proposed dwellinghouse would be via the existing access to Chestnut Farmhouse from Tarvin Road. I do

not have any substantive evidence to show that the use of this for one additional dwelling would be unacceptable in terms of highway safety. Furthermore, the prevention of the use of the existing vehicular access from Chestnut Lane could be suitably controlled via condition and thereby, this would not increase congestion or traffic movement along Chestnut Lane.

26. I appreciate that the loss of the outbuilding from Chestnut Farmhouse may lead to further pressure for new outbuildings for this property. As the outbuilding is vacant and so no longer needed, which implies that there would unlikely be pressure for such going forward. However, Chestnut Farmhouse has permitted development rights, as do many properties in the Green Belt, and such rights for new incidental outbuildings could be exercised within its garden even if the appeal were dismissed. Also, in respect of outbuildings within the garden of the proposed dwelling, this could be controlled by removing permitted development rights, as discussed further below.
27. Concerns have been raised by interested parties about the original use of the building, that sheds that were to be replaced by the appeal building remain and, that the building has a separate post code. Whilst I do not have any substantive evidence in respect of such matters, they are not matters which would weigh against allowing the proposal.

Conditions

28. I have considered the conditions suggested by the Council, in the event I allow the appeal, having regard to the advice contained within the Planning Practice Guidance (PPG) and the Framework. In addition to the standard implementation condition, it would be necessary in the interests of certainty to define the plans with which the scheme should accord.
29. Details of the proposed external surfaces of any works to the building are shown on the proposed plans and application form. A condition relating to external surfaces is not necessary, as this would duplicate the conditions requiring compliance with the plans. There would be sufficient parking space within the appeal site, including two spaces within the proposed garage and further parking space to the west side of the driveway, as shown on the proposed plans. The integral garage would also provide sufficient space for secure cycle storage. Therefore, conditions in relation to such matters are not necessary and so do not meet the tests set out in the Framework.
30. The proposed plans show that the new bullseye window in the south side elevation is to be fixed shut and obscure glazed, however this would not control any future changes to this window. The window serves a bedroom and this and any other potential future upper floor openings in the south elevation would look out towards land that is part of the private garden space of Chestnut Farmhouse. Therefore, to ensure no overlooking is caused to the living conditions of the occupiers of this property, conditions requiring the bullseye window to be obscure glazed and fixed shut at a height below 1.7 metres from the internal floor level and a condition to control any further openings in the south elevation, would be necessary. However, I have amended the recommended wording of the conditions to be more precise.
31. I do not have any substantive evidence, including reference to any relevant current local plan policy to demonstrate that a condition is reasonable or necessary to require the proposed dwelling to meet a higher national housing

standard for water consumption or provide an electric charging point.

Furthermore, Building Regulations include the requirement to provide a vehicle charging point for new dwellings, including conversion schemes and so, it is not necessary to replicate such. Therefore, conditions related to these matters do not meet the tests set out in the Framework.

32. As no details have been provided in respect of proposed drainage, a condition is reasonable and necessary to ensure foul and surface water for the new dwellinghouse is drained onto separate systems.
33. As Chestnut Lane is of restricted width and in having regard to the evidence provided, in the interests of highway safety a condition is necessary to ensure the existing vehicular access onto the Lane is permanently closed, and that details of any works related thereto is first agreed with the Council. Although, I have amended the wording of this condition to be clear and precise. However, details are not necessary in relation to the vehicular access to be used on Tarvin Road, as this is existing and based on the evidence it would provide appropriate and safe access to serve the proposed development.
34. As set out in the PPG and the Framework, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this instance, I consider that to protect the openness of the Green Belt and the character of the countryside, it would be reasonable and necessary to restrict further development by removing permitted development rights for any extensions to the building and for any outbuildings within the appeal site. However, it would not be necessary or reasonable to remove permitted development rights for the installation of a chimney or flue, as such addition to the building would not cause harm to the openness of the Green Belt. I have therefore amended the wording of the condition accordingly.

Conclusion

35. For the reasons set out above, the proposal accords with the development plan taken as a whole and there are no other considerations which outweigh this finding.
36. Accordingly, I conclude that the appeal should be allowed and grant planning permission.

C Billings

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall not begin later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the details shown on the following approved plans: Location Plan D136-01, Proposed Elevations D136-05 Rev A, Proposed Floor Plan D136-04 Rev A, and Site Plan C136-06 Rev A.
3. Prior to the first occupation of the dwellinghouse hereby permitted, a scheme of works to permanently close the existing access onto Chestnut Lane, including details of any works within the highway related thereto, shall be submitted to, and agreed in writing by the local planning authority. The development shall thereafter be carried out in accordance with the agreed details prior to first occupation of the dwellinghouse hereby approved and the access shall remain closed for the lifetime of the development.
4. The dwellinghouse hereby permitted shall not be occupied until the first floor window in the south elevation shown on the approved plans as 'new bullseye fixed and obscure glazed window with brick headers', has been fitted with obscured glazing to a minimum Pilkington Privacy Level 3 or equivalent, and no part of that window that is 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 obscured glazed window shall be retained thereafter for the lifetime of the development.
5. 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 other windows or openings, other than those expressly authorised by the permission, shall be introduced on the south elevation of the dwellinghouse.
6. Foul and surface water of the permitted dwellinghouse shall be drained onto separate systems.
7. 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 development falling within Schedule 2, Part 1 (Classes A - E) shall be carried out on the appeal site without the grant of planning permission by the local planning authority. For the avoidance of doubt this restricts any development consisting of the enlargement or alteration of the dwellinghouse, an alteration or addition to its roof, and the provision of any buildings or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse.

End of Schedule of Conditions