



Appeal Decision

Site visit made on 16 April 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2024

Appeal Ref: APP/A0665/W/23/3330025

Poplar Farm, Cuddington Lane, Cuddington, Northwich CW8 2SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Leigh against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/00899/S73.
 - The application sought planning permission for Amendment to application 15/02524/FUL for conversion of agricultural building to 3No dwellings, erection of 3 garages, demolition of redundant buildings, and associated works without complying with a condition attached to planning permission Ref 17/00954/FUL dated 21 August 2017.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: 0575-01 rev i Existing site and location plan; 0575-02 rev i Existing combined; 0575-03 rev ii Proposed combined; 0575-05 rev vi Proposed site; 0575-06 rev iii Proposed garages.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There has been a revised National Planning Policy Framework (the Framework) published by Government on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended although paragraph numbers have been changed. I have referred to the new paragraph numbers in my decision. I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. The decision notice refers to Policy DM19 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (LPLADP) however, the Council have confirmed that this is incorrect, and that the correct reference should be Policy DM21. I have had sight of Policy DM21 and have referred to it in the decision.

Background and Main Issues

4. Application 17/00854/FUL sought permission for the conversion of agricultural building to 3No dwellings, erection of 3 garages, demolition of redundant

buildings, and associated works. The agricultural building was converted and the garages built for plots 1 and 2. Application 22/01233/S73 allowed an amendment to the design of the garage for plot 3, extending it in terms of length, height and width. The current application seeks to amend condition 2 to reposition the garage to approximately 10 metres to the south east of the existing garage block and create a turning area between the garage blocks.

5. The main issues are whether the disputed condition is reasonable and necessary, having regard to:
 - whether the proposal is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - the effect on the openness of the Green Belt.
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

6. The appeal site lies within the designated Green Belt and comprises a converted agricultural building known as Leigh View Barns along with a detached garage block.
7. Paragraph 142 of the Framework outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 154 and 155, sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
8. Paragraph 154c) sets out that new buildings within the Green Belt are inappropriate unless the extension or alteration of a building does not result in disproportionate additions over and above the size of the original building.
9. The Framework does not define what a disproportionate addition would be. An assessment of whether the proposal would be disproportionate to the original building is therefore a matter of planning judgement but the overall size of the building (either in terms of footprint, floorspace or volume) is clearly an important factor. Guidance in the House Extensions and Domestic Outbuildings Supplementary Planning Document (2021) states that in the Green Belt detached outbuildings will generally be regarded as inappropriate development but that if they are within 5 metres of the main dwellinghouse they will be treated as extensions to the house rather than a new building. In this case the proposed outbuilding is more than 5 metres away from the host building.
10. The proposed garage block would be separate from the existing garages which serve plots 1 and 2 of the agricultural building conversion. It would be closer to the boundary and extend the area of built development within the appeal site. When viewed from Cuddington Lane, it would appear to continue the built form into an area free from built development.
11. Taking the above factors into account, the proposal would not fall within any of the exceptions set out in paragraph 154 of the Framework. It therefore follows that it would be inappropriate development in the Green Belt. It would also be

contrary to Policy STRAT9 of the of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (LPSP) and Policy DM21 of the LPLADP which have similar aims.

Effect on openness

12. One of the five purposes of a Green Belt, outlined at paragraph 143 of the Framework, is that it should assist in safeguarding the countryside from encroachment.
13. Whilst the mass, bulk and floor space of the garage would be slightly smaller than that already approved by application 22/01233/S73, the location would be detached from the existing buildings and be more prominent in views from Cuddington Lane, as can be seen in the photographs in the appellants Statement of Case (page 11). In addition, in spatial terms, two separate buildings would spread the development across more of the site, as agreed by both parties. Consequently, albeit to a limited degree, the proposal would, in both visual and spatial terms, harm the openness of the Green Belt.
14. I therefore conclude that the development would lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment, contrary to the Framework.

Other considerations

15. The appellant has indicated that the garage currently permitted by application 22/01233/S73 is larger than the appeal proposal, is awkwardly angled being attached to the existing garage building and has an inconsistent roofline. However, if the appeal were to fail, there is realistic prospect that this garage could be constructed.
16. The degree of weight to be given to the fallback position depends on whether or not it would be equally or more harmful than the scheme proposed. As set out above, the fallback position differs from the appeal proposal in its position and size and the proposed detached position of the garage would have a greater impact on both the spatial and visual aspects of openness. For this reason, the proposal, although more limited in terms of its footprint, would have a greater impact on the Green Belt than the fallback position. Consequently, taking all these matters into account, the fallback position carries moderate weight in favour of the proposal.
17. I have had regard to the appeal decisions brought to my attention where Inspectors have concluded that the fallback position would be more harmful to the openness of the green belt than the appeal proposals. However, in this case it is the fallback position that would be less harmful. In any event, I have determined the appeal on the site-specific circumstances of the case.

Other Matters

18. The appeal site is also located within the Cuddington Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
19. The Council consider that the although the ridge would be higher, the location and orientation of the proposed garage would not detrimentally impact on the

character or appearance of the Conservation Area. From my observations I have no reason to disagree with that view.

20. I note the third party comments and objections to the proposal with regard to the validity of the appeal and other matters. As this appeal has been dismissed on the main issues above, I have not pursued these further.

Green Belt balance and Conclusion

21. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt. The Framework states that 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
22. For the reasons set out above, the development constitutes inappropriate development in the Green Belt. Furthermore, there would be limited harm to the openness of the Green Belt. The other considerations put forward in support of the proposal attract moderate weight in favour of the proposal.
23. Therefore, I conclude that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such the proposal would conflict with the Framework, Policy STRAT9 of the LPSP and Policy DM21 of the LPLADP which together seek to protect the Green Belt.
24. The proposed development conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given the appeal should be dismissed.

H Senior

INSPECTOR