



Appeal Decisions

Site visit made on 8 July 2024

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th August 2024

Appeal A Ref: APP/A0665/W/23/3330771

Smithy, Hanns Hall Road, Neston CH64 7TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 James Horne against Cheshire West and Chester Council.
- The application Ref is 23/02491/OUT.
- The development proposed is the demolition of existing building and erection of up to 4 new custom self-build dwellings and associated works.

Appeal B Ref: APP/A0665/W/23/3330893

Smithy, Hanns Hall Road, Neston CH64 7TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr James Horne against the decision of Cheshire West and Chester Council.
- The application Ref is 22/03096/OUT.
- The development proposed is the demolition of existing building and erection of up to 4 new dwellings.

Decisions

1. Appeal A is dismissed, and planning permission is refused.
2. Appeal B is dismissed.

Procedural Matters

3. As set out above there are two appeals on this site. They differ only in respect of the maximum quantum of dwellings proposed and that it is sought to secure those in Appeal A as self-build. The main issues in both appeals are the same. Whilst I have considered each proposal on its individual merits and have indicated below where separate issues are raised, to avoid duplication I have dealt with the two schemes together.
4. The planning applications for the proposals in both appeals were submitted in outline form with all matters, except for access, reserved for subsequent consideration. The submitted plans show the points of access to the appeal site. I have treated all other detail shown on the submitted plans as being for indicative purposes only.
5. For the avoidance of doubt, the site addresses and descriptions of development above are taken from the planning application forms. I have removed reference in the descriptions to the outline nature of the proposals as this is not a form of development.
6. The evidence before me indicates that the proposal in Appeal B was amended during the planning application process. As such, the accurate description of

development is provided in the decision notice and appeal form as 'Demolition of existing building and erection of up to 3 new dwellings and associated works'. I have proceeded accordingly.

7. The Council did not determine the planning application for Appeal A within the appropriate period of time. The Council subsequently indicated that had it been in a position to decide the application permission would have been refused. An assessment of the proposal and putative reasons for refusal are included in the Council's appeal evidence.

Main Issues

8. The main issues are:

- Whether the proposals would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- Whether the appeal site represents a suitable location for housing;
- Whether safe access to the site could be achieved;
- The effect of the proposals on the character and appearance of the area; and
- If the proposals are inappropriate development, whether the 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 proposals.

Reasons

Whether inappropriate development

9. The appeal site includes a part single, part two storey building. It is located in part of the countryside which is designated as Green Belt and is surrounded by a wooded area to the north, fields to the east and west and the University of Liverpool Leahurst Campus to the south.
10. Policy STRAT9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (the LP1) and Policy DM19 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the LP2) seek to ensure that developments in the Green Belt accord with the approach set out in the Framework.
11. The Framework states that the construction of new buildings should be regarded as inappropriate development in the Green Belt subject to a number of exceptions. One such exception, at paragraph 154 g), is limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
12. Paragraph 142 of the Framework states that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. When applying the concept of openness to the particular facts of a case, a number of factors are capable of being relevant. For the purposes of

these appeals, I have considered both the visual and spatial aspects of openness.

13. It is suggested that the total number of dwellings proposed in both Appeal A and Appeal B could be constructed within the footprint of the existing building however the plans before me do not indicate this, with the indicative footprint of the dwellings in both schemes extending beyond the building's existing footprint.
14. I do however acknowledge that the submitted plans are only indicative in respect of matters of layout and appearance thus it is somewhat difficult to make an assessment on openness. Nevertheless, I have no reason to doubt that the proposed schemes could not result in an overall reduction in volume of built form on the site. This could be controlled at the reserved matters stage of each proposal.
15. Despite this however, the volume of the proposed built form would be arranged in a very different way to the existing building. The properties are likely to be at least two storeys in height and may be positioned in a part of the site which is currently occupied by the part single storey elements of the existing building. There may also be gaps between the properties and each may have delineated external space to the front and rear, which may include areas of hardstanding in the form of patios and parking areas.
16. Such a structured, domestic arrangement would contrast sharply with the current informal and compact appearance of the site. Up to 4 and up to 3 dwellings as proposed in Appeal A and Appeal B respectively would not therefore appear as consolidated as the existing building, even if the total volume of built form would be less.
17. I am not convinced that any resultant views through the site between the proposed dwellings would result in an improvement to openness, but rather it would contribute towards the appearance of a greater spread of built form.
18. Furthermore, the comings and goings associated with residential properties and the domestic activity within the site would have a marked visual impact on openness in this locality.
19. Whilst views of the appeal site are restricted to a degree by the surrounding landscaping, the existing building is nevertheless apparent from some public vantage points. The proposed schemes would therefore also be visible.
20. All of these factors together would cause the proposals in both Appeal A and Appeal B to have a greater impact on the openness of the Green Belt than the existing development. Therefore, the proposed schemes would constitute inappropriate development as set out in the Framework, Policy STRAT9 of the LP1 and Policy DM19 of the LP2.

Whether suitable location for housing

21. Policies STRAT1, STRAT2 and STRAT8 of the LP1 collectively seek to direct new housing to identified settlements as these are locations which have good accessibility to public transport, shops, services and facilities, amongst other things. As noted, the appeal site falls outside of an identified settlement and thus is located in the countryside for development plan policy purposes.

22. Policy STRAT9 of the LP1 and Policies R1 and DM19 of the LP2 also seek to protect the intrinsic character and beauty of the countryside through restricting development to that which requires a countryside location.
23. Policy STRAT 9 of the LP1 sets out that replacement buildings will be permitted in the countryside. Building upon this, Policy DM19 of the LP2 states that proposals for residential development in the countryside will only be supported where they meet one of a number of criteria. Criterion 7 allows for the replacement of buildings on previously developed land, subject to a number of factors being met. I shall address each in turn.
24. I note there are nearby bus stops within a reasonable walking distance from the appeal site and that there are relatively good services provided Monday to Friday. However, they are less frequent on Saturdays, with no service at all on Sundays. Additionally, as noted below, the unsafe conditions along the private drive from the appeal site to the junction with the B5133, the highway on which the bus stops are located, reduces any benefits associated with the close distance of the bus stops and the good weekday services. As such, I consider that there would not be good access to public transport in this instance.
25. The nearest shops, services and facilities are located in Willaston. To access them future residents would have to walk to the end of the private drive and along the B5133. I have already referred to the unsafe route from the appeal site to the junction with the B5133. Once on this highway, a footway is provided along parts however it is not continuous along the full length to Willaston, neither is street lighting. Furthermore, the distance involved to the nearest services and facilities is considerable.
26. I note there is a garage with convenience store located along Chester High Road. It seems to me that the footway conditions are good and there is street lighting along this stretch. However, the distance involved is also considerable and pedestrians would have to cross Chester High Road to access the footway, with no dedicated crossing. I observed this road was busy with relatively high vehicle speeds. Given its classification and its connection between settlements I consider that my observations were not unusual.
27. There are further shops and services in Neston however they are not within a reasonable walking distance and, moreover, would require pedestrians to cross Chester High Road, as above.
28. It is suggested that the Wirral Way offers options for cycling to nearby shops and services however the details before me are lacking and I nevertheless note from the evidence that it is a significant distance away. Moreover, the policy requires the site to be located within reasonable *walking* distance (my emphasis). All in all, I consider that the walking distance to local services and facilities would not be reasonable and it would not be along a safe route.
29. The existing building is of a traditional Dutch barn design with curved roof and is constructed from brick and metal sheeting with wooden windows. Rather than being of a modern construction and appearance, it has strong traditional characteristics. It is not in a dilapidated condition and it clearly contributes to the rural character of the area. Whilst the appeal proposals would result in its loss and thus fail to accord with criterion 7 iii of Policy DM19, the resultant harm in this respect would be limited given my findings on character and appearance below.

30. Criterion 7 iv of Policy DM19 of the LP2 requires the proposal to not result in an unacceptable loss of employment land or buildings. Policy DM5 of the LP2 notes that development proposals that would result in the loss of employment land or premises will only be supported where they meet a number of criteria, including that reasonable attempts must have been made (and evidenced) to continuously let or sell the premises for employment use for at least 12 months at a reasonable rate and there is no reasonable prospect of the site being re-used for employment uses. This is also reflected in Policy ECON1 of the LP1.
31. The evidence before me indicates that the appeal building was used as a metal fabrication and engineering workshop up to 2017, following which it has remained vacant. Other than references to how long the site was marketed for prior to the appellant purchasing it, as well as auction details for the sale of the goods at the site, there is no specific detail on the marketing which took place in an attempt to let or sell the premises for employment use.
32. Furthermore, I note that it has been a considerable number of years since the site was marketed, regardless of whether this was for general sale or let/sale for employment use. The appeal proposals have not therefore convincingly demonstrated that they would not result in the unacceptable loss of an employment building.
33. In support of this matter, the appellant has referred to Policy DM22 of the LP2 however this concerns the change of use of buildings to dwellinghouses. The different criteria to that provided in Policy DM19, particularly whether the building is redundant or disused, is not therefore a factor in my consideration of this matter.
34. It has been suggested that the Council has already accepted the principle of residential use at the appeal site through the approval of a previous application to convert the building to a single dwelling, with subsequent permission for a detached garage. Full details of those approvals are not before me thus I cannot ascertain whether the circumstances are directly comparable to the appeal proposals before me.
35. I shall address remaining matters in LP2 Policy DM19 relating to the design and layout of the proposals and their impact on the character of the countryside below.
36. Taking all the above into consideration, the appeal proposals conflict with the Council's strategy for new housing thus the appeal site does not represent a suitable location for housing. The proposals fail to accord with policies STRAT1, STRAT2, STRAT8, STRAT9 and ECON1 of the LP1 and policies R1, DM1, DM5 and DM19 of the LP2, the aims of which are noted above.

Access

37. The appeal site is accessed along a private stretch of Hanns Hall Road which is single width along most of its length. I observed that the existing passing points are limited and predominantly towards a stretch of the drive closest to the B5133. It is not clear to me however whether they are formal passing points which would always be available to use. Nevertheless, a significant stretch of the drive to the appeal site remains without passing points.
38. Each appeal would generate more movements along the drive than is currently experienced. Vehicles traversing along this lengthy drive to the appeal site

would be prevented from passing one-another, as well as pedestrians, along much of its length. This would result in drivers having to reverse along the road to a point where two vehicles could pass. This may be a considerable stretch, and there may be incidents where vehicles would have to reverse onto the B5133 or wait there until the drive was clear. These manoeuvres would be dangerous, would put drivers and pedestrians in hazardous situations and would prevent the free flow of traffic.

39. Whilst the private drive may already provide access to residential properties, most are located towards the junction with the B5133 thus the length along which any dangerous movements may take place would be considerably less than that which would result from the appeal proposals. Beyond those properties, the drive terminates at a gated access to what appears to be a single dwelling thus current vehicular movements along the remainder of this private drive would be limited.
40. I acknowledge the positive Lawful Development Certificate which confirms a B2 (general industrial) use of the appeal site. Comparing the likely trip generation that would be associated with a B2 use at this site with that of the maximum number of dwellings proposed, I acknowledge that the latter would generate less trips in both the morning and evening peaks.
41. However, typical daily routines of future residential occupiers of each proposed dwelling would likely result in similar comings and goings, particularly at peak times, thus increasing the potential for conflict along the access route. This would be very different to users of a B2 use at the site. Furthermore, whilst the evidence before me is lacking, the appellant suggests that there is little to no prospect for the re-use of the site for general industrial purposes.
42. I note that a new passing place close to the appeal site has been proposed. Whilst this may provide a place to pass, it would not address the remaining considerable stretch where vehicles and pedestrians would be in conflict with one another.
43. Accordingly, the proposals would fail to provide safe access to the site, resulting in conflict with Policy STRAT10 of the LP1 and Policy T5 of the LP2 which together aim to ensure that developments do not have an adverse impact on highway safety.

Character and appearance

44. The appeal site is located in the countryside, with the immediate locality having strong rural characteristics. Traditional properties, boundaries and other features are prominent in this rural area.
45. Details of the layout and appearance of the proposed dwellings are reserved for future consideration. Nevertheless, the appeal site is of a generous size for the maximum number of dwellings proposed. I am not persuaded that up to 4 dwellings in this location would be inherently suburban or significantly urbanise this part of the countryside. It may be possible to arrange the properties in varying ways and of a scale which is reflective of the rural setting and enhances the site. I can see no reason why a scheme which has traditional, rural characteristics and features and complements the distinctiveness and intrinsic character of the countryside would not be plausible.

46. Therefore, the proposed development in its outline form would not result in harm to the character and appearance of the area. It therefore complies with Policies STRAT9 and ENV6 of the LP1 and Policies DM3 and DM19 of the LP2 which seek to ensure developments are of a high-quality design and appropriate scale so as to respect the character of the countryside.

Other considerations

47. The proposals would deliver up to three or up to four dwellings. The Framework provides clear support for boosting the supply of housing and identifies that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. However, given the modest number of dwellings each proposal would provide, along with the poor-access arrangements and unsuitable location, I afford limited weight to this benefit in each appeal.
48. The proposals also represent redevelopment of previously developed land for which there is support in the Framework. Given the lack of evidence to confirm there is no longer demand for the site for business use, the proposed residential use of the site may not represent the optimal use of the land thus this tempers the weight I can afford to this matter in each appeal to no more than limited.
49. The proposal would result in temporary economic benefits during construction and more long-term benefits on subsequent occupation. Given the scale of the proposal I afford these benefits limited weight.
50. The scheme in Appeal A seeks to deliver self-build dwellings and a planning obligation in the form of a unilateral undertaking has been submitted which seeks to secure this. The evidence before me suggests that the number of permissions the Council has granted over the base period exceeds the demand for such plots. The appellant has raised concerns over the Council's data on custom and self-build housing however no substantive evidence is before me to confirm that the Council has not considered secondary sources of registration, that double counting has occurred or that some of the permissions do not fulfil the definition of custom self-build. Given the small contribution which the appeal proposal would make, I attach limited weight to this benefit in Appeal A.
51. My attention has been drawn to approved developments at Hanns Hall Livery, Nessun Dorma and Marsh Nurseries in which it appears that the developments proposed either no greater or more volume of built form than existing built form, or the development extended beyond the footprint of existing buildings. I also note the approval of the detached garage adjacent to the appeal building.
52. I have very limited detail before me of each example above thus I cannot be certain of the full circumstances around their approval or ascertain whether they are directly comparable to this appeal. I nevertheless acknowledge that there may be circumstances in which an increase in total volume of built form or encroachment onto an undeveloped part of a site may be found to have no greater impact on openness. This is a matter of planning judgment based on the particular circumstances of the case and it is important that each example is determined on its own merits. I have set out my reasoning on this matter above. These examples do not therefore justify the appeal proposals and I afford them limited weight.

53. The appellant states that permitted development rights under Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which allows for the change of use of a building falling within Use Class E to a dwellinghouse, represents a fallback to the appeal proposals. The existing building appears to be in Use Class B2 thus it would not be subject to Class MA. Regardless, for a proposal to be considered as permitted development under Class MA it is subject to prior approval being sought from the Council. I have no evidence before me to suggest such an application process has been carried out thus, even if the permitted development right exists, the purported fallback is not applicable in this instance.
54. Increased council tax revenues which would result from the appeal schemes would mitigate against each thus this does not represent a benefit.

Whether very special circumstances exist

55. The Framework makes it clear 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 and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
56. I have concluded that each proposal would be inappropriate development in the Green Belt and would result in harm to its openness. In accordance with the Framework, I afford this Green Belt harm substantial weight in each appeal. I have also identified that the proposed developments would conflict with the Council's strategy for housing and safe access would not be provided to the appeal site in both cases. These matters weigh substantially against each appeal proposal.
57. The other considerations advanced in support of both appeals do not therefore clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the proposals do not exist thus they would fail to accord with Policy STRAT9 of the LP1 and Policy DM19 of the LP2 and the Framework, as referred to above.

Conclusion

58. The proposed schemes in both Appeal A and Appeal B would conflict with the development plan when taken as a whole and there are no other material considerations, including the Framework, which indicate a decision should be taken other than in accordance with it.
59. Therefore, Appeal A and Appeal B should be dismissed.

H Ellison
INSPECTOR