



Appeal Decision

Site visit made on 11 September 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Appeal Ref: APP/R0660/W/24/3342165

Land adjacent to 33B Squirrels Chase, Lostock Hall Road, Poynton, Cheshire East SK12 1DP

- 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 planning permission.
 - The appeal is made by Abode Property Development against Cheshire East Council.
 - The application Ref is 23/0927M.
 - The development proposed is the erection of two detached properties and associated access and landscape works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached properties and associated access and landscape works on Land adjacent to 33B Squirrels Chase at Lostock Hall Road, Poynton, Cheshire East SK12 1DP in accordance with the terms of the application, Ref 23/0927M, subject to the conditions in the attached schedule.

Preliminary Matters

2. The address given on the application form notes that the address of the appeal site is 33B Squirrels Chase. The site relates to land adjacent to this address. Therefore, in the formal decision above I have used the description of the site location since it provides a more accurate description of the appeal site's location. The description of development has also been amended to remove superfluous detail such as the appeal site address.
3. This appeal follows the Council's failure to provide a decision within the statutory time frame. The Council have provided a statement of case, indicating that the application would have been refused as it would constitute inappropriate development in the Green Belt, had they had the jurisdiction to make this decision. The substance of the Council's submission has informed the main issues of the appeal.
4. The appellant submitted amended plans to the Council for their consideration during the application process. The changes between the original submitted plans and these amendments were the removal of a Juliet balcony and changes to the fenestration on the front elevations of both plots one and two. The Council note that these plans were submitted to, in part, address specific objections raised to the scheme. It is the Council's assertion that these plans were uploaded before the end of the public consultation process.
5. As the Council did not make a decision on this application, and an adequate public consultation process was undertaken, I am satisfied that interested parties would not be prejudiced if these plans were accepted. Therefore, I

have assessed this appeal on the amended plans submitted during the application process.

6. During the appeal, the Council suggested a set of planning conditions in the event that the appeal was allowed. One condition suggested that a landscaping plan would need to be submitted to the Council. The appellant contended that this was provided during the application. This did not appear in the evidence before me and as such, this was requested from the Council. The appellant sought to respond to the request by providing the landscaping plans. In response, the Council stated that they raised no objection to their contents, that this additional information was made public on the planning register and the application was readvertised accordingly. Therefore, it is considered that by accepting these landscaping plans that no interested party will have been prejudiced. I turn to this matter later in the conditions section of this decision.
7. During the course of the appeal, the Government published a written ministerial statement and enabled a consultation on proposed changes to the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on these documents in relation to the appeal. At the time of writing, these changes are only in draft form. Depending on the outcome of the consultation undertaken, the draft form is subject to change. As such, whilst the parties have commented on these changes, I have given very limited weight to these proposed changes in this appeal.

Main Issues

8. The main issues are whether or not the development is inappropriate development in the Green Belt having regard to the Framework and any development plan policies.

Reasons

9. The site subject to this appeal is located in the Green Belt. This site was not previously developed. Paragraph 154 of the Framework notes that the construction of new buildings in the Green Belt should be regarded as inappropriate. Several exceptions are listed in Paragraph 154. One of the exceptions included is the limited infilling in villages. Policy PG3 of the Cheshire East Local Plan Strategy 2017 (LPS) also includes this exception. Therefore, the LPS, insofar as it is relevant to the main issue, is consistent with the Framework.
10. Policy PG10 of the Cheshire East Site Allocations and Development Policies Document 2022 (SADP) addresses which settlements are defined as infill villages. Poynton is not listed in this policy. Policy PG10 states that outside of the village infill boundaries, development proposals will not be considered to be limited infilling in villages when applying LPS Policy PG3.
11. There is no definition of 'village' within the Framework. The statement of case provided by the Council suggests that an 'on the ground' assessment approach should be undertaken with regard to the overarching consideration of whether a site is within a village for the purposes of the Green Belt. The Council are of the view that the appeal site does not form part of a village and is located beyond the settlement boundary.
12. The appeal site is located off a small access track from Lostock Hall Road and is bound by Wigwam Wood and other residential dwellings. Two residential

dwelling is located along this small access road forming a small string of development and are located next to the appeal site. In continuing down Lostock Hall Road, there are existing dwellings located beyond the access track and would be to the front of the dwellings proposed. Beyond these properties are a series of significant greenhouses which form part of a large site of a business premises.

13. To the rear of the site, there are properties along the main drive of Lostock Hall Road which host extensive garden spaces to the rear of the appeal site. These garden spaces contain outbuildings of contrasting sizes and designs. I note that these gardens are located in the Green Belt. However, domestic paraphernalia and residential boundaries are readily visible features in these rear gardens and form part of the immediate locality.
14. During my assessment, it was noted that this particular area of Poynton is split away from the centre of Poynton itself due to the railway line which splits Poynton centre from this area beyond the railway station. Heading towards Poynton centre along Chester Road, there is no apparent strong form of commercial activity or buildings before reaching the railway station. This activity begins in the centre of Poynton itself.
15. As such, when travelling along Chester Road, this immediate vicinity appears as part of a village given the absence of strong commercial activity. A Public Right of Way is located along the footpath on Lostock Hall Road. This footpath provides a walking route from the appeal site to Chester Road where there are other suitable footpaths towards Poynton train station and Poynton itself.
16. Therefore, in consideration of the specific characteristics in this case in terms of the spatial pattern of development as well as the appearance of the appeal site within the context of other development, my conclusion is that the site is located in a village for the purposes of paragraph 154 (e) of the Framework.
17. The Framework does not define 'limited infilling'. Policy PG10 of the SADP defines infill development as generally the development of a relatively small gap between existing buildings. The site is bound by Wigwam Wood to the east. Nevertheless, there are residential dwellings, outbuildings and a business with large greenhouses located to the front, rear and a side of the appeal site. The proposal for two dwellings, bound by these existing buildings and Wigwam Wood, would be limited in scale. As such, based on the circumstances of this site and the proposal before me, I conclude that the appeal scheme would constitute limited infilling.
18. In consideration of all of these matters, the development would not immediately accord with Policy PG10 of the SADP as it would be located outside of a designated infill village boundary as listed within the policy. The site is also located outside of the settlement boundary as set out in the Poynton Neighbourhood Development Plan 2019. However, in assessing the spatial and visual circumstances of this specific case, I find that the appeal site would be located in a village for the purposes of paragraph 154 (e) when undertaking an 'on the ground' assessment. I have found that the proposed development would be limited infill, and this aspect would accord with Policy PG10 of the SADP
19. Policy PG3 of the LPS and the exception noted in the Framework do not state that openness is a factor in the assessment of if a proposal would be

inappropriate. Therefore, there is no requirement to assess the effect of the development on the openness of the Green Belt. I have found that the proposal would not be inappropriate development in the Green Belt. As such, it is not necessary for me to have regard to other considerations to weigh against Green Belt harm.

20. To conclude, I find that the proposal would not be inappropriate development in the Green Belt. The proposal would meet the aims of Policy PG3 of the LPS. Despite the initial conflict with Policy PG10 of the SADP, the findings from my 'on the ground' assessment find that the appeal site would be located in a village for the purposes of the Framework test. The proposal would comply with Policy PG10 as it would constitute limited infilling. The development would also comply with Policies MP1 and SD1 of the LPS. These policies note that the LPS reflects the presumption in favour of sustainable development contained within the Framework, where the development would be located in an accessible location.

Other Matters

21. The Council have a five-year housing land supply and can demonstrate that it can significantly exceed it and that there is no need for new housing to occur on the Green Belt. However, the five-year housing land supply is not a ceiling or limit on development.
22. Interested parties have commented on various matters related to this proposal, including character and appearance. The Council have commented on the character of the area, noting that the scheme would provide a positive addition to the surroundings and would respond suitably to the sites location and scale, concluding that the new dwellings would not negatively impact upon the character of the area. In my assessment of this matter, there is a mixture in the design of properties in the immediate area. As such, I find no reason to disagree with the Council on this matter.
23. The two dwellings would host windows to the front and rear, and a Juliet balcony to each building to the rear. In my analysis of the rear outlook, these windows and Juliet balcony would look out across the rear elements of the gardens located on Lostock Hall Road. As such, they would not overlook the main patio areas to the rear of these properties and would be some distance away from these gardens, owing to the distance offered in each of the proposed plots. In addition, the dwellings would not be located close to the main windows or protrude beyond the elevations of neighbouring properties and therefore would not be detriment to their outlook. As such, there would be no material loss of privacy to the occupiers of adjoining dwellings.
24. Noise would be experienced during construction and is a temporary effect of development on schemes of this limited size. Future residents may bring further noise and light to the area through general movement, indoor and outdoor lighting, lifestyle choices and the use of private vehicles. However, this is a primarily residential area where general noise and light is to be expected. Whilst the development would be in an area designated as Green Belt, it would not be read as a standalone feature where light spill would appear alien in this context.
25. A bin collection point is proposed to be located opposite Plot 1 on the access road which would lead to the two dwellings. Neighbouring occupiers raise

concern with the siting of the bin collection point adjacent to their boundary. There would be a hedgerow between the two sites and a considerable distance to these neighbouring properties. As such, I find that the storage of refuse would not cause material harm to the amenities of these neighbouring occupiers.

26. Concern has also been raised on highway safety grounds due to the location of the Public Right of Way nearby and the general layout of the access road to the two properties. The site is accessed from a private road which would provide access for a limited number of units. This would create a low number of vehicle movements. Owing to the narrow width and alignment of the private road, movement speeds would be lower as it is unlikely that drivers would drive this route at speed in order to minimise damage to their vehicle and prevent collisions with others. The Council have reached a similar conclusion on this matter of highway safety. In addition, the parking of vehicles beyond the appeal site is a concern raised by interested parties. The Council note that there is sufficient space within the site for off-street parking in accordance with their car parking standards. As such, I find that there would be sufficient space within the site for several vehicles.
27. Damage to the highway from construction traffic is cited as an area of concern. The Council have suggested a condition requiring the submission of a Construction Method Statement. A suitably worded condition, such as that suggested by the Council, would overcome this potential harm.
28. Issues relating to biodiversity, nature and wildlife are referred to by interested parties. A Biodiversity Impact Assessment (produced by Rachel Hacking Ecology and dated 6 June 2023) found the site pre-clearance to have a biodiversity unit value of 3.40, and a predicted post-development value, when considering proposed on-site habitat creation, of 3.82. This would result in a biodiversity net gain on the site in excess of 10% if it is delivered. As such, I find that a suitably worded condition, such as that suggested by the Council, would overcome this concern.
29. I note that Wigwam Wood is afforded protection through a Tree Preservation Order. The Arboricultural Statement proposes the use of 'no dig' designed surfacing areas. The Council note that this would accord with best practice and would be unlikely to have a detrimental effect on the health of adjacent trees. The Council have suggested a condition which would require the submission of a landscape scheme. I will turn to this condition later in my decision.
30. The flooding of Poynton Brook in Wigwam Wood has been raised as a concern following its apparent flooding several years ago. Interested parties suggest that increased water run-off from two additional dwellings would flow rapidly into Poynton Brook, increasing the risk of flooding. The appellant has not provided a flood risk report and the Council's relevant consultee has not commented on this matter. However, the Council note that the proposal would comply with the policy requirements relating to flood risk in their officer report. Nevertheless, in my assessment of this matter, the site is relatively flat with large garden spaces incorporated into their design. Any run-off experienced would be limited. Whilst there is an absence of evidence, in following the Council's assessment on this matter, I do not find that this proposal would exacerbate flood risk in the locality, subject to an appropriately

worded condition. The requirements of this condition are discussed in the condition section of my decision.

31. No significant sources of contamination have been identified on the appeal site. However, a septic tank is located on the site which serves a number of properties which poses a risk if not adequately handled. Soil is also proposed to be imported to the site which also poses a risk if it is not chemically suitable for the area. The Council have suggested conditions related to the importation of soil and procedures to be undertaken in the event that contamination is found. A suitably worded condition would overcome this concern.
32. Interested parties have commented that the site would attract anti-social behaviour and crime, particularly during the construction period due to the presence of plant machinery and materials. The fear of crime can be a material consideration. However, there must be a reasonable and evidential basis for that fear. There is no convincing evidence before me to suggest that this would occur or be to the detriment of neighbouring occupiers in particular.
33. Applications are decided on their own merits and any further proposals would be subject to their own assessments against planning policy. I have determined the appeal based on the specific circumstances of the appeal site and the details of the proposals before me. Residents have cited utility issues in the locality, such as water pressure and electricity cuts. I do not consider that two additional units would exacerbate this problem or would it be necessary for the developer of such a small scheme to address these issues through the provision of new infrastructure. With regard to land ownership, from the evidence before me, the appellant has signed Certificate B and has given notice to the relevant parties. The possible effect on property prices is not a material consideration in planning decisions.
34. Comments have been made of the handling of the application, the appeal and its contents by interested parties who suggest that documents are inaccurate or misleading. The application is for two dwellings. In my analysis of the appeal, I have had regard to the evidence before me and the findings from my site visit.
35. A case involving Worthing Council, the Secretary of State and 'Anor' is commented on by interested parties, citing the overturning of an Inspectors decision on a case with apparent similarities. No information relating to the case has been provided, nor has its relevance or similarities been substantiated either. As such, I cannot assess the relevance of this case for this appeal and therefore, have had limited regard to this in my decision.

Conditions

36. The Council did indicate which conditions it wanted to be considered in the event that the appeal was allowed. In assessment of these conditions, I have undertaken minor changes to meet the six tests and I have consulted the parties on this wording. Neither party raised any objection to the suggested wording of the conditions which were consulted on.
37. In addition to the statutory time condition [1], a condition specifying the approved plans [2] and the specification of materials [3] are justified in the interest of certainty. A condition which requires a sample panel of brickwork to be used in the construction of the external surfaces [4] has been attached.

The appellant did question the necessity of this condition in their evidence in light of the conditioning of the external surfaces required by condition 3, stating that the brick is referenced in the Material Palette Elevation. However, with specific regard to brickwork, there is an absence of a specification which details the exact brick which would be utilised. This is not precise and as such, the provision of a sample panel is necessary.

38. A condition has been included which requires development to be undertaken in complete accordance with specified tree protection and special construction measures [5]. This is necessary to ensure that nearby trees which are to be retained are protected from harm during the course of the development of the scheme. The provision of a condition which requires no development to take place until an engineer designed 'no dig' hard surface construction specification has been submitted to the Council [6] is necessary to ensure that trees are not harmed once the development has been completed and the surface has been laid. A condition requiring that a detailed service and foul and surface water drainage layout shall be submitted to and approved in writing by the Council [7] is included. This condition is necessary and required to ensure that trees are not harmed post construction from foul and surface water drainage.
39. The provision of a condition which requires the submission of a habitat creation method statement and a 30-year habitat management plan for the retained and newly created habitats [8] on site is required and necessary to safeguard biodiversity and ecology on the appeal site. The provision of a Construction Environmental Management Plan (CEMP) [9] is necessary to avoid risk of contamination to the site and wider locality. The imposition of a condition which requires the submission of a strategy for the incorporation of features to enhance the biodiversity value [10] is necessary to achieve and safeguard biodiversity within the appeal site. A condition which restricts the removal of any vegetation, unless a detailed survey has been carried out [11], is necessary in the interests of protecting any protected species.
40. The implementation of the provided landscaping scheme within the first planting season following the occupation or the completion of the development [12] is necessary to ensure that the appropriate landscaping of the site is carried out. It is necessary to ensure that the development does not create risks relating to contamination for the future occupiers of the two dwellings and its neighbours. As such, a condition which requires the testing of imported soil for contamination and the relevant information submitted to the Council is required [13], as is a condition which requires the developer to report any unexpected contamination to the Council [14].
41. To manage the effects of construction on amenity and public safety, a condition which requires the submission and approval of a Construction Method Statement [15] is necessary to understand how the construction process will be managed by site operatives.
42. The Council have suggested a condition which would involve the removal of Permitted Development Rights from the two dwellings. This would restrict the occupants from undertaking any development relating to Classes A, B, C and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. As proposed, the site area of each plot is limited and therefore, any further construction of an extension or outbuilding for

example, would be limited due to the stipulations of the order. If an extension or outbuilding was desired by the future occupants of the two dwellings which fell outside of the stipulations of the order, these would need to be applied for and assessed against the development plan. As such, I do not consider this suggested condition is necessary or reasonable.

Conclusion

43. For the reasons given above the appeal should be allowed.

J Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers listed below:
 - Plot One – Proposed Floor Plans and Elevations 22123 (PL) 200C
 - Plot Two – Proposed Floor Plans and Elevations 22123 (PL) 210C
 - Site Location Plan 22123 (PL) 001A
 - Existing Site Plan 22123 (PL) 004A
 - Proposed Site Plan 22123 (PL) 005A
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan number 22123 (PL) 220A (Material Palette Elevation), unless different materials are first submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development to external walls shall take place until a sample panel of the brickwork to be used in the construction of the external surfaces has been prepared and made available for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed brickwork, bond and pointing technique to be used in the development. The approved sample panel shall be retained on site until the work is completed. The development shall be carried out in accordance with the approved sample panel.
- 5) No development or other operations shall take place except in complete accordance with the tree protection and special construction measures identified in the Arboricultural Statement (CW/10900-AS) and Tree Protection Plan (CE/10900-P-TP) dated 21st February 2023 with measures to be implemented under Arboricultural supervision in accordance with BS 5837:2012 Trees in relation to design, demolition and construction.
- 6) No development shall take place until details of an engineer designed 'no dig' hard surface construction specification for any area of hard surfacing within the root protection area of retained trees has been submitted to and approved by the Local Planning Authority. These details shall also include the proposed details of the materials for the final wearing surface. The development shall be implemented in accordance with the approved details.
- 7) Prior to the commencement of development or other operations being 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) a detailed service and foul and surface water drainage layout shall be submitted to and approved in

writing by the Local Planning Authority (notwithstanding any additional approvals which may be required under any other Legislation). Such layout shall provide for the long-term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service / drainage layout.

- 8) Prior to the commencement of development, a habitat creation method statement and a 30-year habitat management plan for the retained and newly created habitats on site shall be submitted to and approved in writing by the local planning authority. The habitat creation method statement shall detail habitat creation and enhancement measures to ensure the delivery of those habitats specified in the biodiversity metric calculations submitted with the application and in the Biodiversity Impact Assessment (prepared by Rachel Hacking Ecology and dated 06/06/2023).
- 9) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP should include working practices to ensure no contaminated water (such as water pumped out of excavations) is discharged into/near/towards the Local Wildlife Site, concrete and cement mixing to take place on an impermeable surface, all cement bags to be sealed after use to prevent leaks or dust, and provision of a contained wash-off area for tools. The approved CEMP shall be adhered to throughout the construction phase of the developed.
- 10) Prior to the commencement of the new development, the applicant shall submit 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), gaps in garden fences to facilitate the movement of hedgehogs, and native species planting. The proposals shall be permanently installed in accordance with the approved details.
- 11) 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 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 take place.
- 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The works shall be carried out as shown on the approved details below:

- Landscape General Arrangement GA01.00 REV P3
- Planting Plan and Schedule PP01.00 REV P3
- Hardworks Layout HW01.00 REV P3

- 13) 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 prior to importation to site. Prior to occupation, evidence, and verification information shall be submitted to, and approved in writing by, the local planning authority.
- 14) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 15) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. wheel washing facilities;
 - vi. measures to control the emission of dust and dirt during construction;
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii. delivery, demolition and construction working hours;
 - ix. how vehicles movements shall be arranged within the site and on Lostock Hall Road;
 - x. how the safety of users and protection of the Public Right of Way shall be carried out.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.