
Appeal Decision

Site visit made on 4 February 2025

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2025

Appeal Ref: APP/R0660/W/24/3351500

Ash Paddocks, Main Road, Aston Juxta Mondrum CW5 6DU

- 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 T Adams against the decision of Cheshire East Council.
 - The application Ref 23/3752N, dated 2 October 2023, was refused by notice dated 13 March 2024.
 - The development proposed is change of use from agricultural to residential curtilage and retrospective vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for the development of change of use from agricultural to residential curtilage and retrospective vehicular access on land at Ash Paddocks, Main Road, Aston Juxta Mondrum CW5 6DU in accordance with the terms of the application, Ref 23/3752N dated 2 October 2023 and the plans submitted with it, subject to the conditions set out below:
 1. The development hereby approved shall be carried out in total accordance with the following plans and documents: Location Plan (un-numbered); Site Location Plan Drawing Number PL.01; and Proposed Block Plan PL.03 Rev A.
 2. Within 3 months of the date of this permission a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes and proposed numbers / densities and an implementation programme.
 3. The approved landscaping plan 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 3 of British Standard BS5837: 2005 Trees in Relation to 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.

4. Site access visibility splays should be provided in accordance with the details illustrated in Sandersons Associates Consulting Engineers drawing number 161908-001 (see Appendix A of the TN), any foliage, fencing or other obstruction falling within the visibility splays should be cut back/re-planted/positioned behind the visibility splays or maintained at/not exceeding 1.0m in height relative to the level of the site access.

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 development permitted by virtue of Class E of Part 1 of Schedule 2 to the Order shall be undertaken.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published during the consideration of this appeal on 12 December 2024. The references in my decision to the paragraphs in the Framework relate to this new document.
3. Following the submission of the appeal, further detail has been provided by the appellant in relation to highway matters. As a result, the Council no longer recommend that the application is refused on highway grounds. Having reviewed the submitted information, I see no reason to disagree with this and I have therefore determined the appeal on this basis.
4. I note that the application is part retrospective, with the vehicular access already in place. For the avoidance of doubt, I have determined this appeal on the plans, as considered by the Local Planning Authority.
5. There is disagreement between the parties over the amount of additional residential land that would be created by the proposed development. Therefore, for reasons of precision and clarity I have based my decision on the plans as considered by the Council in refusing the appeal application.

Main Issue

6. The main issue on this appeal is the effect of the proposed development upon the character and appearance of the area.

Reasons

7. Policy PG6 of the Cheshire East Local Plan, Local Plan Strategy (CELP) deals with development proposals in the open countryside and identifies that only

- certain essential development will be permitted. The proposed development is not required for agriculture, forestry, outdoor recreation or statutory undertakers.
8. Policy PG6 also identifies that other uses appropriate to a rural area will be permitted. There is no definition provided within the policy or the reasoned justification to explain what other uses are included within this exception. To my mind, the key purpose of this policy is to ensure that only development which requires a rural location is undertaken within the countryside. One of the defining characteristics of a countryside location is one that is predominately devoid of urban uses. Whilst I acknowledge that residential development is often found in the countryside, I do not consider the proposed development to be one that requires a countryside location or is needed to support a form of development that is acceptable in the countryside. As such, I find that the proposed development would not meet the requirement of an essential use in the countryside and would therefore fail to accord with policy PG6 of the CELP.
 9. Policy RUR 12 of the CELP identifies that proposals which seek to extend residential curtilages into the open countryside should avoid unacceptable harm to the amenity, character and appearance of the surrounding area, either on their own or cumulatively with other development.
 10. It is common ground between the parties that the appeal site lies within the open countryside and as such, it also falls to be considered against the tests set out in policy RUR12.
 11. The appeal site comprises open land located adjacent to the host property, which is a large, detached dwelling, set back from the road. To the rear is a residential annex, along with a garden area. Beyond this, is a tennis court that is enclosed by a wire mesh fence and benefits from floodlights. To the front is an existing driveway that leads to a detached garage, along with an area laid to lawn.
 12. The surrounding area comprises predominately open agricultural fields. Due to the lack of enclosure, there are clear views across the appeal site to the open countryside beyond. As such, notwithstanding the existing residential development, the character of the appeal site is very much defined by its relationship with the open land around it, with the open nature of the appeal site contributing to this character.
 13. The proposed development has resulted in the expansion and encroachment of the existing residential use into the currently open and undeveloped countryside. This, along with the activity associated with the residential use and the access, has eroded the countryside character and has an urbanising effect. This is out of keeping with its surroundings and harms the rural character and appearance of the area.
 14. There are no nearby residential properties and as such the proposed development has no impact upon amenity in that respect. However, in relation to policy RUR12, I consider that amenity refers to more than those of nearby residents, which is no doubt covered by other policies in the development plan. To my mind, this test relates more to the overall enjoyment of the rural location by all users.

15. Large parts of the proposed development are not readily visible from public vantage points as they are screened by existing buildings and mature landscaping. That said, the access and the introduction of residential use onto those parts that are visible, appear as urban features within the open countryside. As such, I find that the proposed development harms the amenity of the area. However, given that the majority of views are restricted, I find overall that this is of limited harm.
16. Concern has been raised by the Council with regards to the potential for an increase in residential paraphernalia within the proposed additional area, and the urbanising effect this would have upon the countryside. At present, no additional structures are shown to be erected as part of the proposed development, but I share the Council's concerns that, should ancillary development be brought forward through permitted development rights, then this has the potential to have an urbanising effect, which would have an unacceptable effect upon the character and appearance of the area. In response, the appellant has suggested that the matter could be addressed through a planning condition which would remove permitted development rights. The Council do not consider that such a condition would meet the tests of precision and reasonableness.
17. Having considered the matter, I find that a condition removing permitted development rights would satisfy the tests as set out in the Framework. Whilst there is disagreement over the amount of new residential area to be created, I find that the submitted plans are clear, with the site boundary identifying the full extent of the area to be used for residential purposes. Furthermore, given the countryside location of the site, along with the need to retain the open views across the site to protect the character and appearance of the area, I consider it reasonable to remove permitted development rights to ensure these are protected.
18. Policy RUR 12 accepts that proposals for extending residential curtilage in rural areas would result in harm, and therefore requires proposals to avoid unacceptable harm. There is no definition of unacceptable harm and as such, falls to be considered as a matter of judgement.
19. I have found that the proposed development harms the amenity and the character and appearance of the area. That said, whilst the proposal increases the amount of area to be used for residential purposes, the existing open views across the site to the open countryside beyond are retained, thereby minimising the harm to the character and appearance. Furthermore, due to its design, appearance and surfacing, the access reflects the rural location of the appeal site and maintains the openness of the countryside. I have also found that, given that the majority of views are restricted, there is limited harm to amenity.
20. Therefore, whilst I have found that the proposed development causes harm, given its limited nature I do not find this to be of such a degree as to represent unacceptable harm. Furthermore, I consider that an appropriately worded planning condition to restrict future ancillary development, would ensure that the character and appearance of the area is maintained. In this respect, I therefore conclude that the proposed development would accord with Policy RUR12 of the CELP.

21. Overall, whilst I have concluded that the appeal scheme would not meet the definition of essential development in the open countryside as set out in Policy PG6, I have found that it would meet the requirements set out in Policy RUR12 in relation to the extension of residential curtilages in the open countryside. Whilst it is important to read the development plan as a whole, given the specific nature of the proposed development, I find that the test as to whether the development is acceptable or not, to be the one as set out in Policy RUR12. Therefore, on that basis, I conclude that the proposed development would accord with the local plan and the Framework.

Conditions

22. The suggested conditions have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. I have made a number of minor changes to the format of the conditions to improve their legibility and precision.
23. A requirement to implement the scheme in accordance with the approved plans is necessary, as are conditions requiring the submission of a landscaping scheme, along with measures to ensure its retention. To ensure the protection of highway safety, it is appropriate to attach a condition requiring the provision and maintenance of the required visibility splays. To protect the character and appearance of the area, it is appropriate to attach a condition removing certain permitted development rights.

Conclusion

24. For the above reasons, I conclude that the appeal should be allowed.

Adrian Hunter

INSPECTOR