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## Appeal Decision

Site visit made on 13 March 2025

by **K Williams MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> April 2025

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**Appeal Ref: APP/R0660/W/24/3351334**

**Wainwright Caravans, Lower Park Road, Poynton, Cheshire SK12 1EE**

- 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 Jones Homes (North West) Limited against the decision of Cheshire East Council.
  - The application Ref is 22/2395M.
  - The development proposed is the demolition of 3 no. workshop buildings and replacement with a new (single) workshop building.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. On 12 December 2024, the Government released an updated version of the National Planning Policy Framework (the Framework). The parties have been provided with an opportunity to comment on the revised Framework.

### Main Issues

3. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt including its effect on openness and the purposes of including land within it, having regard to the Framework and the development plan;
  - whether the proposal provides adequate mitigation for European protected species, with specific regard to Great Crested Newts;
  - if the development is inappropriate, 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 inappropriate development*

4. The proposal includes the demolition of three existing workshop buildings. The proposal seeks to replace them with a single building in the same use. The appeal site is located within the Green Belt. The Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Development in the Green Belt is therefore inappropriate

development unless it falls within one of the exceptions listed in paragraph 154 a) to h). The exceptions which are of relevance are contained in paragraphs 154 d) and 154 g). The updated Framework also provides for further exceptions in relation to Grey Belt land at paragraph 155.

Replacement of a building - Framework Paragraph 154 d)

5. Paragraph 154 d) of the Framework states that the replacement of a building is not inappropriate development provided it is in the same use and not materially larger than the one it replaces. A similar approach to replacement buildings in the Green Belt is set out in Policy PG3 of the Cheshire East Local Plan Strategy, July 2017 (the CELPS).
6. At the time of my site visit, the three existing individual buildings to be demolished were dilapidated. They had a distinctly agricultural appearance, particularly as surrounding agricultural land swept up to them. I note that interested parties, have a differing view on how and when the buildings were last used. However, a statutory declaration was provided with the planning application and submitted with the appeal evidence. This very briefly sets out that Wainwright's Caravan Repairs (WCR) operated at the site up until 2021.
7. Whilst it is not within the remit of this appeal for me to determine whether the use of the site would satisfy the requirements pertaining to the grant of a Lawful Development Certificate, the Council has not disputed the use of the site as set out in the appellant's statutory declaration. As such there is no substantive evidence before me that the proposed building would not be in the same overall land use. Moreover, there is no indication that the Council has sought to take enforcement action against any allegedly unlawful use.
8. The appellant contends that the proposal would not be materially larger than the three combined buildings. The appellant's spatial assessment figures indicate the proposed building exceeds the cumulative floorspace and that the volume of the combined existing buildings by 26%. The Council's height assessment shows the proposal would be higher than each of the existing buildings. Ultimately the proposal has a greater width and height than the buildings it replaces. This would be a considerable enlargement overall.
9. Two of the existing buildings to be replaced are positioned very discretely adjacent to a hedgerow. Several mature trees are located to the east and west of the site. These landscape features effectively screen the existing buildings from Lower Park Road. The proposal would alter the magnitude of development on the site and also move it towards the north and west in a visually more exposed location opposite the open site entrance. It would move the building closer to Woodford Road as it would encroach further into the field. It would also be positioned closer to nearby residential properties and gardens to the west. The width and height of the proposed building combined with its position would also obscure views across fields, which are currently open and free from development. The increased bulk combined with the position of the building away from the tree and hedgerow boundary in a more exposed position would make it more prominent within the immediate and wider area.
10. Thus overall, my view, taking into account size and perceptual considerations, is that the building is materially larger. It would therefore not meet the exception in Framework paragraph 154 d).

Previously Developed Land - Framework paragraph 154 g)

11. Notwithstanding the above, the exception given in Framework paragraph 154 g) relates to the limited infilling or the partial or complete redevelopment of Previously Developed Land (PDL), whether redundant or in continuing use. The case here in relation to the redevelopment of PDL is the assessment of whether the development causes substantial harm to the openness of the Green Belt set out in Framework paragraph 154 g). This aspect is a notable change from the superseded version of the Framework which specified that in the above circumstances redevelopment of PDL should not have a greater impact on the openness of the Green Belt than the existing development.
12. The glossary in Annex 2 of the Framework defines PDL as that which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. It excludes agricultural land and buildings. Given my views on the aforementioned submitted statutory declaration, which indicates the existing buildings were formerly Use Class B2<sup>1</sup> I see no reason to dispute that the appeal site includes PDL.
13. However, there is some dispute, highlighted within the officer report, over the extent of the curtilage of the PDL. This is of relevance due to the proposed siting of the building. I observed that the land within the wider field was indistinguishable from the grassed site shown within the appeal site. The presence of fencing closely positioned on the norther side of buildings could have suggested some historical enclosure and a smaller curtilage. However this was intermittent and I am mindful that curtilage does not need to be confined to a small area, and physical enclosure is not necessary.
14. The land in question should serve the purpose of the buildings in some necessary or reasonably useful way. The appellant's evidence suggests that the site was historically open to the field and was used by WCR for pedestrian circulation and occasional caravan parking and manoeuvring. The plan accompanying the statutory declaration broadly reflects the appeal site area.
15. It has not been demonstrated on the basis of the current layout, the position of the boundary fencing or through the submission of historical aerial images that part of the appeal site was not so intimately connected with the buildings. There are no significant differences in land character that the appellant's purported activity could not have occurred within the entirety of the appeal site. Furthermore, in my view the appeal site is not an extensive or prominent area in comparison to the wider field within which it is located, and on the evidence before me it is reasonable in this case to consider this land as the curtilage to the PDL.
16. Openness is capable of having both spatial and visual aspects. The existing buildings are evident from Woodford Road, whereby the buildings are seen against the backdrop of the hedgerows and trees. They are not prominent, particularly due to their low dilapidated appearance and position close the site boundaries. As such although there are several buildings on site, there does not appear to be substantial built form, even from views beyond and across surrounding land. Within this context, the existing site does not have a considerable adverse effect on openness.

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<sup>1</sup> Town and Country Planning

17. The appellant has provided the total volume and floorspace of the existing and replacement buildings. As noted above the proposed building is considerably larger. Spatially, the proposal would alter the overall amount, shape, form and position of development and activity on the site and result in a considerable reduction in spatial openness.
18. Visually, I have already come to the view the proposal is sited in a more exposed location and would be more prominent from surrounding homes, Woodford Road and Lower Park Road. There is a sense of openness to the existing site due to the fact that the site forms part of an undeveloped open field and is also next to open land and fields on three sides. I fully appreciate why the proposed building has been moved away from trees and hedges, but moving the development away from the edges of the site and the boundary landscape features, not only introduces an incongruous pattern of development through encroachment into the field.
19. The trees and hedges screen would not mitigate the proposal from all views. The effectiveness of this would also depend upon when they would be in leaf. Furthermore the hedgerows are not overly high to provide a substantive backdrop. Although a landscape scheme could be conditioned, there are no details before me to be certain of effectiveness.
20. The proposal would in my view introduce a greater level of activity from that which could currently occur, due to the higher quality building proposed. The formalised parking of vehicles and turning areas also can be considered to have an impact on openness. This would be somewhat mitigated from the majority of wider views by the site boundary and the proposed building.
21. I have taken into account that there are buildings on site, activity would have occurred and that there are nearby major roads, homes, buildings, and landscape features in the surrounding area. However, the existing buildings are unobtrusively located. Given the immediate absence of buildings and the open undeveloped nature of the land on three sides of the site, the proposal would lead to a considerable reduction in visual openness.
22. The proposal would not serve the purpose contained in paragraph 143 d) of the Framework to assist in safeguarding the countryside from encroachment. In this case the effect of the proposal amounts to substantial harm to openness. It would therefore not meet the exception in Framework paragraph 154 d).

#### Grey Belt – Framework Paragraph 155

23. Paragraph 155 of the Framework indicates that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where all of the listed criteria a) to d) are met.
24. Criteria a) refers to the utilisation of grey belt land that would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. The Glossary to the Framework defines grey belt land as land in the Green Belt comprising previously developed land (PDL) and/or any other land that, in either case, does not strongly contribute to any purposes a), b) or d) in paragraph 143 of the Framework.

25. Given my conclusion above and taking into account the advice in the Planning Practice Guidance<sup>2</sup> the site is not in a large built up area, would not prevent towns from merging or affect the setting of a historic town and thus would not strongly contribute to the Green Belt purposes a), b) and d).
26. However, Framework paragraph 155 b) requires a demonstrable unmet need to be substantiated for the type of development proposed. No substantive or robust evidence to demonstrate that there is an unmet need for the proposal has been provided. For example, no clear and substantive evidence related to the existence, availability and specification of other workshops in the local area is before me.
27. All the relevant criteria in Framework paragraph 155 needs to be met. Therefore notwithstanding whether the appeal site can be considered to be in a sustainable location, the proposal would not meet the exception in Framework paragraph 155 b) and thus it fails to be considered as not inappropriate development.

#### Conclusion on inappropriate development

28. I conclude that the proposal constitutes inappropriate development in the Green Belt. Overall the spatial and visual effects of the development would cause substantial harm to the openness of the Green Belt, which carries substantial weight against the development. Consequently, very special circumstances need to be demonstrated for the proposal to be considered acceptable in terms of CELPS Policy PG3 and the Framework. I subsequently return to this matter.

#### *Protected species*

29. Great Crested Newts (GCN) are designated and protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations). Current advice states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
30. However, mitigation is proposed in the form of joining the District Level Licencing scheme (DLL). This is designed to assess impact and mitigate any harm, thus removing the need for applicants/developers to undertake their own GCN surveys. GCN are European Protected Species. Natural England and the Government's guidance<sup>3</sup> (the DLL Guidance) on GCN and the DLL advises that a copy of the countersigned Impact Assessment and Conservation Payment Certificate (IACPC) must be provided to show they have agreed to join the scheme.
31. However, the submitted and countersigned IACPC<sup>4</sup> does not provide a Location Plan at Appendix 3. The DLL Guidance advises that it is necessary to check that the site details and boundaries of the IACPC are the same as on the planning application. I must be certain that the site details, including the red line boundary correspond to the details of the proposal when considered by Natural England and that it is still current. Therefore in relation to the appeal scheme, I am not satisfied that a valid or binding IACPC has been submitted and so the impact of the proposal on GCN and any necessary mitigation has not been demonstrated.

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<sup>2</sup> Paragraph: 005 Reference ID: 64-005-20250225

<sup>3</sup> Great crested newts: district level licensing for local planning authorities How to assess planning proposals that may affect great crested newts if the developer applies to use the Natural England district level licensing (DLL) scheme. Natural England and Department for Environment, Food and Rural Affairs 25 July 2022

<sup>4</sup> Great Crested Newt District Level Licensing Impact Assessment & Conservation Payment Certificate, Countersigned 05/08/2022

32. For this reason I conclude that on the basis of the evidence submitted it has not been demonstrated that the proposal would protect or provides adequate mitigation for European protected species, with specific regard to Great Crested Newts. Accordingly, the proposal would conflict with CELPS Policy SE3 of the Cheshire and Policy ENV2 of the Site Allocations and Development Policies Document, December 2022, and the Regulations.

### *Other Considerations*

33. Paragraph 153 of the Framework states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
34. The proposed development would be inappropriate development in the Green Belt and therefore harmful by definition. I therefore place substantial weight on the harm by inappropriateness and harm to openness and the purposes of the Green Belt that I have identified.
35. It has not been demonstrated that the proposal would provide suitable mitigation for GCN, a European protected species. This matter weighs significantly against the proposal.
36. There would be economic benefits derived from the proposal. The proposal would replace a dilapidated structure and allow employment generating development on the site. This would likely make a small contribution to the surrounding local and rural economy. However, the benefits to the existing business are not fully qualified, there is no evidence the building is required to support an existing business, or that other units could not fulfil this requirement. As such the economic benefits carry moderate weight in favour of the appeal.
37. The appeal site is close to the Grade II listed building called Haybrook, whose significance is derived from its age, rural historical use and setting. Whilst not related to a reason for refusal, I must, in light of my duties under section 66(1) of the Planning (Listed Buildings and Conservation areas) Act 1990 (as amended) have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
38. The Council raised no concerns regarding listed building, and I do not disagree. Haybrook and the appeal site are separated by the presence of Lower Park Road. Although there is little development between Haybrook and the appeal site, the separation distances and orientation of the appeal site to the listed building would restrict intervisibility between the two. Thus the development would preserve the setting of Haybrook, the significance of which would not be harmed. However, this weighs neither for nor against the proposal.
39. There is no dispute between the parties with regards to the effect of the proposal's effect on living conditions of nearby residents, design, materials, the effect on trees, other protected species, flood risk or highway safety. I note a number of interested party concerns have been raised in these respects. However, these matters did not feature in the Council's refusal reasons and I note that there were no objections from statutory and other technical consultees on these grounds

unless as part of the main issue. Consequently, and having regard to the existing use of the site, I have no reason to find the scheme unacceptable in these regards. However, these represent neutral factors weighing neither for nor against the proposal.

40. It may well be that replacing the buildings would tidy the site, but there is no substantive evidence that this is a significant problem that can only be resolved by development of the site in this form. Whilst I appreciate that it is important to avoid Root Protection Areas of protected trees and ensure hedgerows are protected, I have not been provided with any evidence that other technical construction solutions have been considered could be used to mitigate the effects.
41. I have been referred to an appeal decision at Redehall Road<sup>5</sup>. That appeal was submitted with a Landscape and Visual Impact Assessment (LVIA), which concluded that proposal had a neutral impact on openness. There is no LVIA before me in this appeal, and I also note that Inspector considered the increased height of buildings would be barely perceptible beyond the site itself, and the proposed vegetation along the edges of the site would assist in containing the development. I do not agree this is the same in this case, furthermore I have not been provided with site photographs or plans to verify this. This decision is not sufficiently relevant to change my view, and thus carries little weight.
42. The other considerations do not clearly outweigh the substantial weight that I give to the significant harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the proposed development would thus conflict with the Green Belt protection aims of the Framework. It would therefore also conflict with CELPS Policy PG3, which does not permit inappropriate development, except in very special circumstances, in accordance with national policy. As such the proposal is also in conflict with the guidance in the Framework chapter 13.

## Conclusion

43. I have found it has not been shown the scheme would not have an adverse effect on GCN, and that issue alone, is sufficient for me to resist the proposed development. However, I have further found it to be inappropriate development for which 'very special circumstances' do not exist.
44. The development conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, including the Framework which indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

*K Williams*

INSPECTOR

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<sup>5</sup> Appeal Ref: APP/M3645/W/24/3354630