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## Appeal Decision

Site visit made on 17 April 2025

by **J D Westbrook BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 07 May 2025.**

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**Appeal Ref: APP/R0660/W/24/3358127**

**Bradwood, Bagley Lane, Audlem, CW3 0DR**

- 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 Pamela Brisbourne against the decision of Cheshire East Council.
  - The application Ref is 22/3181N.
  - The development proposed is the construction of a new detached house and garage.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Pamela Brisbourne against Cheshire East Council and this is the subject of a separate Decision.

### Procedural Matter

3. The application was submitted in August 2022. At this time there were agricultural buildings present on the site. Most of the buildings were demolished in early 2023. In September 2023, new plans were produced for a dwelling and garage smaller than, and different in design from, the plans submitted with the application in 2022. It would appear that the Council determined the application on the basis of the amended plans dated September 2023. I have based my considerations also on these later amended plans.

### Main Issue

4. The main issue in this case is the effect of the proposed new house on the open countryside around Audlem.

### Reasons

5. The appeal site is a parcel of land, 1300 sq metres in extent, situated in open countryside to the south east of Audlem. It has been in agricultural use and previously contained agricultural buildings, most of which have now been removed. The land is currently unused with some mounds of earth, industrial containers and one remaining small agricultural building. The site lies adjacent to the residential property known as Bradwood, which is apparently in the same ownership. The proposed development would involve the construction of a detached house and garage on the site, with access from Bagley Lane.

6. Policy PG 6 of the Council's Local Plan Strategy 2010 – 2030 (LPS) indicates that within the Open Countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. It also lists exceptions, including the replacement of existing buildings by new buildings not materially larger than the buildings they replace.
7. Policy RUR13 of the Council's Local Plan: Site Allocations and Development Policies Document (SADP) indicates that the replacement of existing buildings in the open countryside will only be permitted where the replacement building is not materially larger than the existing building, and would not unduly harm the rural character of the countryside, by virtue of prominence, scale, bulk or visual intrusion. When considering whether a replacement building is materially larger, matters including height, bulk, form, siting, design, floorspace and footprint will be taken into account. Increases in overall building height and development extending notably beyond the existing footprint in particular have the potential to be materially larger.
8. Policy H2 of the Audlem Neighbourhood Plan (NP) indicates that permission will be granted for residential developments of 10 or fewer dwellings that are well designed and meet all other relevant policies within this Plan. If they are outside the settlement boundary they should either fill a small, restricted gap in the continuity of existing frontage buildings, where the site is closely surrounded by buildings normally within an existing dwelling's curtilage, or be located on brownfield land.
9. In the context of Policy H2 of the NP, the use of the term brownfield land is taken to mean the same as that of 'previously developed land' as defined in the National Planning Policy Framework (The Framework), which excludes land that is or was last occupied by agricultural buildings. The appeal site is not, therefore, a brownfield site. To the east of the site are two pairs of semi-detached dwellings, the closest of which is Bradwood, and farmland beyond. To the west of the site is a farm track and then a parcel of open farmland before a short row of residential properties. The gap between Bradwood and the next small group of houses is significant, and the proposed development would merely reduce its width while not filling the gap. On this basis, I do not consider that the appeal site represents infill.
10. Policies PG6 and RUR13 of the LPS and SADP respectively, both indicate that the replacement of existing buildings by new buildings not materially larger than the buildings they replace, may be permitted. In this case, the appellant contends that the proposed dwelling and garage buildings would not be materially larger than the agricultural buildings present on the site at the time of the submission of the application, and has presented sets of figures in support of this assertion.
11. From the figures, it would appear that the proposed buildings would have a combined footprint of 222 sq metres, as opposed to 198 sq metres in the case of the previous buildings. This represents an increase of a little over 10%. The spread of the earlier buildings is given as around 24 metres. The proposed dwelling would have a spread of around 18 metres, to which must be added the width of the garage at around 7 metres and the narrow gap between the two of some 3 metres. The proposed buildings would, therefore effectively spread over a total width of around 28 metres.

12. In terms of volume, the earlier buildings are stated to have a combined volume of some 630 cu metres, while the proposed buildings are given a combined volume of 611 cu metres. However, this latter figure would appear to be incorrect. Given that the proposed dwelling would have two small flat roofed extensions with a height similar to that of the earlier buildings, while the predominant main body of the house and the garage would both have pitched roofs with heights of 6.4 metres and 5 metres respectively, the proposed buildings would clearly have a greater volume. From the measurements provided on the submitted plans, I find that the combined volume of the proposed buildings would be more in the region of 850 cu metres.
13. In the light of the above, I find that the proposed buildings would be larger than the earlier buildings in terms of footprint, spread, height and volume. Moreover, they would appear bulkier by reason of the greater height of the main house and garage. On this basis, I consider that the proposed buildings would be materially larger than the earlier, now demolished, buildings, and that exception 3iii of Policy PG6 of the LPS, and the requirement of Policy RUR13 of the SADP would not apply.
14. The appellant notes that where Council officers were considering the proposed design, they concluded that "the proposed development will be of a reasonable scale and will not be excessive in terms of bulk and mass when compared to the immediately neighbouring development as well as other dwellings along Bagley Lane". She concludes that 'whilst this conclusion may relate more to the assessment of scale compared with prevailing development (as opposed to the existing buildings), it does indicate that the Council were satisfied with the size of the proposed development'. I disagree. The statement referred to in the officer's report appears to be specifically comparative and does not have any other context.
15. In conclusion on this issue, I note that the character and appearance of the countryside along this part of Bagley Lane is of largely open countryside including farmland. On its northern side are two small groups of dwellings with substantial open breaks between and around. The southern side of the road, including directly opposite to the appeal site, is largely open with very few buildings. Both sides of the road have hedge boundaries with some hedgerow trees, and there are mature trees around the appeal site itself.
16. Currently, the appeal site retains the open nature of the surrounding countryside. Even if the earlier agricultural buildings had all remained in existence they would have been low and barely visible above the boundary hedge. The proposed dwelling would be more readily visible, with pitched roofs on the main body of the house and also on the garage. On this basis, the proposal, by reason of its scale, bulk, and increased prominence and visibility, would be harmful to the character and appearance of the open countryside around Bagley Lane.
17. I find, therefore, for my reasons given above, that the proposal would conflict with Policy PG6 of the LPS, Policy RUR13 of the SADP, and with Policy H2 of the NP. Accordingly, I dismiss the appeal.

*J D Westbrook*

INSPECTOR