



Appeal Decision

Site visit made on 12 June 2025

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal Ref: APP/A0665/W/25/3359890

Land adjacent to Leawood, Mudhouse Lane, Burton CH64 5TS

- 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 Mr and Mrs R Lyon against the decision of Cheshire West and Chester Council.
- The application Ref is 24/00821/FUL.
- The development proposed is erection of 1 no. self-build dwelling and detached garage, and associated infrastructure works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Both parties, within their respective submissions had an opportunity to comment on the revised Framework. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

3. The main issues are:
 - whether or not the proposal is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
 - whether the appeal site is an appropriate location for the proposed development, having particular regard to the development plan's spatial strategy.

Reasons

Whether inappropriate development

4. The appeal site is located within the Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of the Green Belt being their openness and permanence. The Framework goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. The Framework establishes that development in the Green Belt should be regarded as inappropriate, subject to a number of exceptions set out in paragraphs 154 and 155. One such exception, at criterion 154 (e), being limited infilling in villages.

6. Policy STRAT 9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (LP1) (January 2015) states that within the countryside, certain forms of development will be permitted. This policy goes on to state that within the Green Belt additional restrictions will apply to development in line with the Framework.
7. Whilst not included in the Council's Green Belt reason for refusal, Policy DM19 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (2019) (LP2) states that in line with LP1 Policy STRAT 9, proposals for development of land in the Green Belt must accord with Green Belt policy as set out in the Framework. The Green Belt requirements of LP1 Policy STRAT 9 and LP2 Policy DM19 are therefore consistent with the Framework.
8. I note that two previous appeal decisions¹ at this site concluded that the site forms part of the village of Burton and this matter is not in dispute between the parties. No evidence has been presented for me to reach a different conclusion on this matter. I therefore find the appeal site to be within the village.
9. With regard to infill, whilst the Framework does not define "*limited infilling in villages*", my attention has been drawn to the subtext of LP1 Policy STRAT 8 where, at paragraph 5.66, it refers to infill as "*the filling of a small gap, up to two dwellings, in an otherwise built up frontage in a recognised settlement*". What constitutes a "*small gap*" is not however defined.
10. Nevertheless, whether or not a development constitutes limited infill is a matter of planning judgement for the decision maker. I have therefore reached my own conclusions on this matter based on the evidence before me and my observations on site.
11. There are residential properties on both sides of Mudhouse Lane which form a ribbon development along this highway. Most dwellings are located within spacious plots with generous frontages onto this highway. The appeal site lies between two detached dwellings at Leawood and Thorndale. Whilst I acknowledge the size of the existing gap between these properties, due to its irregular shape the appeal site's frontage onto Mudhouse Lane is narrower than the frontages of other dwellings on both sides of this highway within the vicinity of the site.
12. The appellant's submission is accompanied by a street scene elevation and several context plans which demonstrate how the appeal proposal would compare to existing dwellings in the immediate locality of the site. These context plans show the plot sizes; footprint to plot size ratios; frontage widths; maximum plot widths and distances between the built development within each plot. These context plans demonstrate that the appeal proposal would be comparable and in keeping with the existing grain of built development in this part of the village. They also show the gaps between the proposed dwelling and the existing properties either side would be similar to the gaps found between existing properties along this road.
13. Furthermore, the reference to "*the filling of a small gap, up to two dwellings...*" in LP1 infers that infill development can accommodate up to two dwellings within such gaps. In this case, I find that the gap between Leawood and Thorndale would not be sufficient to provide space for two dwellings that would be of a size, scale and layout in keeping with the surrounding dwellings and plot sizes. As such, given

¹ APP/A0665/W/16/3144762 and APP/A0665/W/17/3172630

that the appeal site can realistically only accommodate one comparably sized dwelling and plot within this gap leads me to conclude that the gap is not excessive and that the appeal proposal for one dwelling would represent limited infilling within the context of its surroundings.

14. In reaching this conclusion I acknowledge that consistency of decision making is important, and I have had full regard to a previously dismissed appeal decision² at the site, which sought outline planning permission for the erection of one dwelling. I acknowledge the similarities between that appeal and the scheme before me, and that appeal decision is a material consideration in my determination of this appeal. Nevertheless, I am not aware of all the information and evidence the previous inspector had before them.
15. Furthermore, my attention has been drawn to a more recently allowed appeal³ which, whilst not on the same site, is located near to the appeal site in Burton. That decision is also a material consideration and permitted infill development for two dwellings on a plot of land that has a significantly wider frontage, and gap between the neighbouring properties either side, than the appeal before me.
16. I am also aware of the other previously dismissed appeal⁴ at the appeal site which sought outline consent for two detached dwellings between the properties at Leawood and Thorndale. However, I find that appeal to be different to the appeal scheme before me.
17. That appeal had a different site edge red and a notably different shaped development site. It also included the taking of land from the neighbouring dwelling at Leawood to create a wider and more prominent frontage onto Mudhouse Lane, whereas the current appeal proposal would retain the existing frontage and would not take any land from Leawood. As such, I find that previous appeal decision is not comparable to the current appeal scheme.
18. I have also had regard to the other examples of infill development provided by the appellant that have been allowed at appeal⁵, some of which are in a different authority area, as well as a recently approved planning application⁶ by the Council. Whilst plans and aerial photographs of these developments have been provided, I am not familiar with the wider context of these sites and their surroundings in order to make a comparison with the appeal scheme before me which includes various context plans.
19. The Council have also drawn my attention to two appeal decisions⁷ whereby the respective inspectors concluded that those proposals did not represent infill development. However, I have not been provided with any plans, or details of the wider context, in relation to these appeals to enable me to draw any comparison with the current appeal scheme.
20. Furthermore, and as mentioned previously, whether a development constitutes limited infill or not is a matter of planning judgement for the decision maker and therefore each scheme must be considered on its own merits. As such, I attribute

² APP/A0665/W/16/3144762

³ APP/A0665/W/22/3302865

⁴ APP/A0665/W/17/3172630

⁵ APP/A0665/A/14/2217226; APP/A0665/W/14/3000557; APP/R0660/W/17/3170279; and APP/R0660/W/18/3211980

⁶ Council Ref: 24/00588/FUL

⁷ APP/A0665/W/23/3332222 and APP/A0665/W/20/3251641

limited weight to these other examples of infill development in the wider area (outside of Burton), provided by both parties, in my determination of this appeal.

21. In view of all the above, I conclude that the proposal constitutes limited infill in a village. The proposal would therefore not be inappropriate development in the Green Belt, as defined by the Framework, and accords with Policy STRAT 9 of LP1 and Policy DM19 of LP2 in so far as they concern the Green Belt.
22. As I have found that the proposal is not inappropriate development in the Green Belt it is therefore not necessary to consider the effect of the proposal on the openness of the Green Belt, or the purposes of including land within it.
23. Furthermore, given that the proposal would not amount to inappropriate development, there is no need for me to go on to consider whether very special circumstances exist in order to justify the development.

Sustainable pattern of development

24. Policy STRAT 2 of LP1 seeks to ensure that development is brought forward in line with a settlement hierarchy. As the village of Burton is not a defined settlement the appeal site falls within the open countryside and the proposal therefore conflicts with Policy STRAT 2.
25. Additionally, notwithstanding my above finding that the appeal proposal does not represent inappropriate development within the Green Belt, Policy STRAT 9 of LP1 and Policy DM19 of LP2 also set out the forms of development that will be permitted in the countryside. The appeal proposal would not constitute any of the forms of development that are listed within these policies, nor has it been demonstrated that the proposal could not be accommodated within identified settlements.
26. Policy STRAT 1 of LP1 seeks to enable development that improves and meets the economic, social and environmental objectives of the borough in line with the presumption in favour of sustainable development. This policy includes a number of sustainable development principles, including the principle to locate new housing, with good accessibility to existing or proposed local shops, community facilities and primary schools with good connections to public transport.
27. Similarly, LP1 Policy STRAT 8 states that within the rural area the Council will support development that serves local needs in the most accessible and sustainable locations to sustain vibrant rural communities. At paragraph 5.67 this policy acknowledges that beyond key service centres there are many smaller settlements, many washed over by Green Belt, which have a lower level of services and access to public transport but could acceptably accommodate some small-scale development. This paragraph goes on to state that these settlements act as local service centres and will be identified through the LP2. In this regard, the settlement of Burton is not identified as a local service centre in LP2.
28. Nonetheless, I observed that the village of Burton contains a primary school, a church and a village hall with tennis courts, a cricket pitch and a bowling green. It also includes a café and a shop selling flowers and interior decorations. However, there was no convenience store within the village, with the nearest being within the neighbouring village of Little Neston which is a significant walking distance from the appeal site. I therefore find the village of Burton has a limited range of facilities and services to serve the day-to-day needs of future occupiers of the appeal scheme.

29. Furthermore, there is no footway connecting the appeal site to the limited existing facilities and services within Burton. Therefore, occupiers of the proposed dwelling would need to walk in the highway to access the existing facilities. During my visit I noted that there were a significant number of parked cars within the highway throughout the village. Therefore, when walking to these existing facilities from the appeal site pedestrians would need to walk around these parked cars into the middle of the highway, whilst navigating and giving way to moving vehicles. I therefore found the walk from the appeal site to the existing facilities in Burton to not be particularly inviting, and it would be especially difficult for pedestrians with young children, a disability or a buggy.
30. I acknowledge that cycling to the facilities within neighbouring settlements may be an option for some future residents but not necessarily an attractive alternative given the lack of separate cycle lanes / routes and the above-mentioned issue with parked cars in the village of Burton. Additionally, not everyone has access to a bike or the ability to ride a bike.
31. I therefore find that walking and cycling to the existing limited range of services and facilities in the village, or the greater level of services and facilities in neighbouring settlements, are not realistic alternatives to the car for regular journeys.
32. My attention has been drawn to a bus stop within the village. However, again to access this bus stop future occupiers would need to walk in the highway. Nevertheless, apart from details that this bus stop provides access to two schools, very limited information has been provided as to how residents of the proposed dwelling would use public transport to access any other day-to-day facilities and services within neighbouring villages. I also noted on my visit that a sign at the bus stop stated, *"There are currently no services passing this stop"*.
33. As such, from the evidence before me future occupiers of the proposed dwelling would be heavily reliant upon use of the private vehicle to reach facilities for most of their journeys and day-to-day needs. I therefore find that the appeal site does not have good access to shops, facilities and public transport connections and does not represent a sustainable location. This view is consistent with the findings of two previous inspectors in relation to appeals⁸ at this site.
34. As mentioned earlier, I appreciate that consistency of decision making is important and in coming to the above view I have had full regard to the more recent appeal decision⁹ at a nearby site within the village of Burton, whereby it was concluded that appeal site was accessible to local services and facilities for those without access to a car. This decision is a material consideration. However, I note it does not refer to LP1 Policies STRAT 1 and STRAT 2 which were included within the Council's reason for refusal on the appeal before me. As such I am not clear what evidence and policies were before that inspector.
35. Additionally, I also note at paragraph 16 that the inspector states *"They would also have access to the proposed community shop and café that forms part of the development that is currently taking place at Burton Manor"*. The inspector therefore clearly gave weight to the provision of the proposed community shop when considering the services and facilities in the village during their assessment of that appeal.

⁸ APP/A0665/W/16/3144762 and APP/A0665/W/17/3172630

⁹ APP/A0665/W/22/3302865

36. During my site visit I observed that the café was operational and the appellant states that the shop is now trading. Limited information has been provided in respect of the use or location of this community shop. As mentioned earlier, I did not observe any convenience store or alike within the village but I did observe a shop selling flowers and interior decorations close to the café. Without any evidence or information to the contrary it is reasonable to conclude that the shop I observed is the community shop referred to within the submitted evidence, and by the previous inspector. However, I am not aware of what information the previous inspector had before them in respect of this community shop and its potential use at the time of that decision.
37. As such, from the information before me it is unclear what exact use of the community shop the previous inspector considered in their assessment of the services and facilities within this village. The absence of this information therefore limits the weight I can attribute to this previous decision in my consideration of the sustainability of Burton, which I have based on my own observations on site and the evidence before me.
38. In this regard, I consider that the provision of a café and shop selling flowers and decorations do not provide essential day-to-day facilities and services for future residents of the proposed dwelling. I therefore find these more recent facilities do not result in the village of Burton being a sustainable location in terms of access to facilities and services for future occupiers.
39. Furthermore, whilst I note that the appeal site is located no further away from the existing facilities than other nearby dwellings, this is not a factor which weighs in favour of allowing the appeal and does not diminish the harm that I have identified.
40. The appellant has also referred to a planning application¹⁰ approved by the Council within the village of Burton for 16no. dwellings, stating that the approval of that application is evidence that the Council consider Burton to be an appropriate location for residential development, despite the reliance upon the private car.
41. Whilst I am not beholden to any previous decisions made by the Council, having reviewed the officer report for that application it states that the proposal was, amongst other things, not considered to represent sustainable development, was inappropriate development within the Green Belt and did not fit in with the settlement hierarchy.
42. Nevertheless, the Council concluded that the benefits of the enabling development associated with the restoration of a designated heritage asset outweighed the identified harm. I therefore do not find that decision from the Council to be comparable with the appeal scheme before me.
43. In view of all the above, based on the evidence before me, I conclude that future occupiers of the proposed dwelling would not have good access to facilities, services and public transport connections. Consequently, future occupiers would be reliant on the private vehicle and the appeal site does not therefore represent a sustainable location and it would be an inappropriate location for residential development according to the development plan's spatial strategy.

¹⁰ LPA ref: 18/01382/FUL

44. The proposal is therefore contrary to Policies STRAT 1, STRAT 2 and STRAT 8 of LP1 where they together seek to direct new development to the most accessible and sustainable locations with good accessibility to existing or proposed local shops, community facilities and primary schools and with good connections to public transport. The proposal would also be contrary to the relevant sections of LP1 Policy STRAT 9 and LP2 Policy DM19 which limit development in countryside areas to that requiring a countryside location, and which set out the forms of development that will be permitted in the countryside.

Planning Balance

45. Notwithstanding my conclusion that the proposal would not represent inappropriate development in the Green Belt, I have found that future occupiers of the proposed dwelling would not have good access to facilities, services and public transport connections. Consequently, the appeal site does not represent a sustainable location and would be an inappropriate location for residential development according to the development plan's spatial strategy. The proposal therefore conflicts with Policies STRAT 1, STRAT 2, STRAT 8 and STRAT 9 of LP1 and Policy DM19 of LP2 which together seek to direct development towards the most sustainable locations in the development plan area.
46. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. In this respect the Framework expects development to promote sustainable travel modes, such as walking and cycling, that limit future car use. Therefore, the conflict between the proposal and Policies STRAT 1, STRAT 2, STRAT 8 and STRAT 9 of LP1, and Policy DM19 of LP2, should be given significant weight in this appeal. As the proposal would be contrary to these policies there would be conflict with the development plan as a whole.
47. The Council has confirmed that it cannot demonstrate a five-year supply of deliverable housing sites. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the appeal are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
48. Footnote 9 explains the policies referred to are those in paragraphs 66; 84; 91; 110; 115; 129, 135 and 139 of the Framework.
49. As the appeal proposal is not for a major housing development, and does not propose a main town centre use, paragraphs 66 and 91 are not relevant to this appeal.
50. In respect of paragraph 84, the appeal site has been found to form part of the rural village of Burton and therefore does not represent an isolated home in the countryside. I find paragraph 84 is therefore not applicable. Nevertheless, even if applicable, the proposal would not adhere to any of the five criteria within paragraph 84 which permits isolated homes in the countryside.
51. The proposed development would be of an acceptable design and therefore accords with paragraphs 135 and 139 of the Framework.

52. However, for the reasons given earlier, I have found that the appeal site is not located within a sustainable location and would not limit future car use as the site does not have good access to facilities, services and public transport connections. The proposal would not therefore accord with paragraphs 110, 115 and 129 (c) of the Framework.
53. In addition, the Framework seeks to significantly boost the supply of homes and make efficient use of land. The appellant contends that the Council can only demonstrate a 2.09-year supply of deliverable housing sites and this has not been disputed by the Council. As such, whilst the provision of one additional dwelling would make a very limited contribution to the Council land supply position, taking into account the Council's significant shortfall in deliverable housing sites, I attach moderate weight to the social benefits arising from the provision of one dwelling which could be delivered relatively quickly on site.
54. The appellant states that the proposed dwelling would be a self-build property and I acknowledge paragraph 73 (b) of the Framework supports small sites to come forward for self-build and custom-build housing. The parties have not however provided substantive details on the level of need for self-build plots within the authority, as per the self-build register, or details of how many self-build plots have been granted consent. I am therefore unaware as to the extent of any potential shortfall in self-build plots within the borough. Notwithstanding this, I have no legal agreement, undertaking or other mechanism suggested to secure this dwelling as a self-build plot under the legislative requirements of the Self-Build and Custom Housebuilding Act 2015 (as amended).
55. Consequently, in the absence of any detailed information in respect of self-build plots within the borough and/or a mechanism to secure this provision, I give the self-build consideration very limited weight in favour of the appeal proposal.
56. The appellant has drawn my attention to an appeal decision¹¹ in this authority, where an inspector gave significant weight to the proposed delivery of 2no. self-build dwellings. However, I have very limited information as to what evidence was before that inspector in respect of the need for self-build properties in the authority, or what mechanism was provided as part of that appeal submission to secure those self-build dwellings. As mentioned above, no such details or mechanism are before me and thus I can draw no comparisons between that appeal and the appeal scheme before me. This therefore limits the weight I can attribute to that appeal decision in relation to this matter.
57. Economic benefits would arise from the proposal, including contributions to the local economy during the construction phase of the development. These however would be short term benefits. In accordance with paragraph 83 of the Framework further economic benefits would also arise from additional spending in the wider area by future occupants of the dwelling. Cumulatively, given the scale of development the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.
58. I note the appellant has made reference to additional Council Tax revenue as a benefit of the appeal proposal. The Planning Practice Guidance is however clear that it would not be appropriate to make a decision based on the potential for a

¹¹ APP/A0665/W/24/3343139

scheme to raise money for the local authority or other government body. As such, Council Tax contributions do not add weight in favour of the appeal scheme.

59. The appellant states that the proposal would not give cause to the loss of any features of significant ecological value, would not cause harm to any protected species and would result in a minimal loss of existing landscape features which could be compensated for and enhanced by a new scheme of soft landscaping, which could be secured by a planning condition. I acknowledge that the proposal would provide an opportunity to increase the overall biodiversity of the site. However, limited details have been provided at this stage and given the scale of the development site, I attribute this matter limited weight in favour of the appeal.
60. In view of the above, I find that the adverse impacts arising from the appeal site's unsustainable location, and the impacts on the Council's development strategy for new development, would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

61. I conclude that the proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

R Major

INSPECTOR