



Appeal Decision

Site visit made on 19 May 2025

by **Richard Clegg BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th July 2025

Appeal Ref: APP/A0665/W/24/3357801

Brookside Farm, Cogshall Lane, Comberbach, Northwich, CW9 6BW

- 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 Trainer Properties Ltd against the decision of Cheshire West and Chester Council.
 - The application, Ref 24/01734/FUL, dated 27 June 2024, was refused by notice dated 5 December 2024.
 - The development proposed is described as 'demolition of the existing dwelling and outbuildings, including removal of the mobile home, and the erection of a replacement dwelling'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the application form and in the statements of the main parties the road on which the site is located is identified as Cogshall Lane. However on the location plan and the proposed site plan, this road is referred to as Cogshaw Lane. The main parties have agreed that the appeal site is on Cogshall Lane, and during my site visit I noticed that this name is on the nearby road sign at the junction with Hough Lane.
3. The description of development refers to the demolition of outbuildings. There are two outbuildings on the east side of the existing bungalow, outside the appeal site, but within land controlled by the Appellant. The Appellant's statement, however, refers only to the demolition of the larger outbuilding (outbuilding No 1), and at the site visit the main parties identified outbuilding No 1 as the only one to be removed. Accordingly, the proposed development should be described as demolition of the existing dwelling and outbuilding No 1, including removal of the mobile home, and the erection of a replacement dwelling, and I have considered the appeal on this basis.
4. The Government published a revised version of the National Planning Policy Framework (NPPF) in December 2024¹, and the main parties were given the opportunity to comment on the implications of the revised NPPF for their cases.

Main Issues

5. I consider that the main issues in this appeal are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt, and, if so, whether the harm caused by inappropriateness, and any

¹ The revised NPPF was republished with detailed amendments to the text in February 2025.

other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

- (ii) The effect of the proposed development on the character and appearance of the area.
- (iii) The effect of the proposed development on bats.

Reasons

The Green Belt

6. The appeal site is situated within the Green Belt, where local and national planning policies impose restrictions on new buildings. Policy STRAT 9 of the Cheshire West and Chester Local Plan Part One provides for replacement buildings in the countryside, amongst other categories of development, but makes the point that additional restrictions apply within the Green Belt in line with the NPPF. In the Local Plan Part Two, Policy DM 21 sets out criteria against which replacement dwellings should be assessed: in the Green Belt a replacement dwelling should not be materially larger than the existing dwelling.
7. The NPPF makes it clear that development in the Green Belt is inappropriate unless it falls within one of the exceptions specified in paragraph 154. The replacement of a building is included as an exception, provided that the new building would be in the same use and not materially larger than the one it replaces. Paragraph 155 of the NPPF then sets out further circumstances where the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate.
8. The existing dwelling is a bungalow, with a room in the roofspace². It would be replaced by a part two-storey/ part one-storey dwelling with both a larger area and volume³. The Appellant has calculated that the existing dwelling has an area of 82.8m² and a volume of 348m³, and that the comparable figures⁴ for the proposed development would respectively be 331m² and 1235m³. These figures demonstrate a substantial increase in size: the proposed dwelling would be over three times larger than the existing bungalow when compared in terms of area or volume. Given the extent of the increase in size of the replacement dwelling, I am in no doubt that it would be materially larger than the existing bungalow, and I note that the Appellant had reached the same view in their appeal statement⁵.
9. Subsequently, in comments on behalf of the Appellant in response to the revised version of the NPPF, the increase in size (in terms of area) is described as negligible. That outcome is based on a comparison of the proposed dwelling with the existing bungalow increased in size by two extension schemes⁶. In 2023, the Local Planning Authority (LPA) determined that prior approval was not required for single storey extensions to the bungalow⁷, and in 2024 it granted prior approval for an additional storey to the property. Taking these schemes into account for the

² Floor plans and elevations of the bungalow are included on plan ref 469/00 rev A.

³ Floor plans and elevations of the proposed dwelling are included on plan ref 469/03 rev J.

⁴ The areas and volumes of the existing and proposed dwellings are included in appendix 3 of the Appellant's statement.

⁵ The Appellant's statement, paragraph 8.6.

⁶ The calculation is set out in appendix 3 of the Appellant's statement.

⁷ The decision notice, ref 32/03192/HHE, refers to a single storey rear extension, whereas the plans for this scheme also show two single storey side extensions. However, it is common ground between the main parties that the scheme covered by the decision notice includes the rear and side extensions.

purpose of comparison, the Appellant has calculated that the area of the replacement dwelling would be 0.2m² greater in terms of area and 2m³ greater in terms of volume than that of the existing dwelling with the two extension schemes. Neither of these schemes has been built, and they do not form part of the existing building, which should be considered in its present form for the purpose of the test in paragraph 154(d) of the NPPF and criterion 4 concerning replacement dwellings in Policy DM 21 of the Local Plan.

10. The Appellant also draws attention to the intended demolition of outbuilding No 1, which has an area of 114m² and a volume of 416m³, and the removal of the mobile home. It is claimed that there would be a substantial reduction in built form across the site⁸, but it is clear from appendix 3 to the Appellant's statement that this outcome is based upon a comparison including not only outbuilding No 1 but also the unbuilt extensions (above para 9), none of which count as part of the existing building. Moreover, although outbuilding No 1 is on land under the Appellant's control, it is not within the appeal site.
11. Notwithstanding paragraph 154(d) of the NPPF, paragraph 155 explains that the development of homes in the Green Belt should not be regarded as inappropriate where all of several criteria apply. The first of these concerns grey belt land. Grey belt is defined in the NPPF as land in the Green Belt land, comprising previously developed land and/ or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) of the Green Belt in paragraph 143. It excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development, but those policies are not relevant in this case. The appeal site is situated within a row of dwellings on the south side of Cogshall Lane, with open land extending to the rear and on the opposite side of the road. It is not close to any large built-up area, and does not contribute strongly to purpose (a) which is to check the unrestricted sprawl of large built-up areas. Given its position within an extensive area of countryside, I have reached a similar view in respect of purpose (b), which is to prevent neighbouring towns merging into one another, and also in respect of purpose (d), since there is nothing before me to indicate that the site plays a role in preserving the setting and special character of any historic town. I find that the site is grey belt land. Bearing in mind the relatively small size of the site and the presence of an existing dwelling, encroachment on the countryside (the subject of purpose (c)) would be limited, as is its contribution to urban regeneration (purpose (e)) given its location away from urban areas. Accordingly I have reached the view that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, and that criterion (a) of paragraph 155 is satisfied.
12. The proposal would not add an additional dwelling to the housing stock of the District. It would provide more living space than the existing bungalow, and I note that the Appellant argues that the proposal would offer the benefit of an improved design and layout, enhancing the life of the family and suiting its needs, and that it would create also a sustainable and thermally efficient home. However, notwithstanding the Appellant's desire for the scheme, there is no detailed evidence before me to indicate that the existing bungalow provides inadequate

⁸ The area and volume of the outbuilding are included in appendix 3 of the Appellant's statement. See also the Appellant's comments in respect of the amended NPPF.

living accommodation, and to demonstrate a need for a larger replacement dwelling of the size proposed (criterion (b)).

13. Criterion (c)) requires the development to be in a sustainable location. The Appellant argues that the site is well-connected to the local road infrastructure and is in close proximity to Barnton, Weaverham, and Northwich. The site is on Cogshall Lane, a rural road which runs through the countryside and does not lead directly to those settlements, and there is nothing to indicate that trips between the site and these places could be made by public transport. However paragraph 110 of the NPPF points out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and paragraph 115 requires that sustainable transport modes should be prioritised taking account of the vision for the site, the type of development and its location. Barnton, Weaverham and Northwich are not far from the appeal site, and journeys by car to local facilities and services would not be lengthy. Moreover, there would continue to be only a single dwelling on the site: consequently any increase in traffic generation resulting from the larger size of the replacement dwelling is likely to be modest. I find that the proposal for a replacement dwelling would be in a sustainable location. Criterion (d) concerns major development involving the provision of housing, and does not apply to this proposal.
14. I have found that the proposal would comply with criteria (a) and (c) of paragraph 155 in the NPPF, but not with criterion (b). Consequently, as not all of the relevant criteria are satisfied, the appeal proposal should not be regarded as not inappropriate as a consequence of the policy expressed in paragraph 155.
15. I turn now to consider the effect of the proposed development on the openness of the Green Belt. The proposed replacement dwelling would be significantly larger than that currently on the site, in terms of both area and volume. Removal of outbuilding No 1 is part of the overall proposal, and could be secured by a condition if permission were granted. Taking the removal of this building into account, and using the dimensions given in appendix 3 to the Appellant's statement⁹, the proposed dwelling would exceed the combined area of the bungalow and out-building by over 130m² and their volume by over 470m³. I do not expect that the additional removal of the mobile home would materially alter this position.
16. The replacement building would be positioned further back from the road than the bungalow, and the larger part of the front elevation would be single-storey in height. However the two-storey element, although partly screened by trees and bushes on the western side of the site, would emphasise the presence of the replacement dwelling, and its effect on openness.
17. I conclude that the appeal proposal would be inappropriate development in the Green Belt, and that it would impinge on the openness of the Green Belt. In accordance with paragraph 153 of the NPPF, inappropriate development is by definition harmful to the Green Belt, and any harm to the Green Belt, including to its openness, carries substantial weight.

⁹ The combined area of the bungalow (82.8m²) and the out-building (114m²) is 196.8m². The proposed house (331m²) would exceed this by 134.2m². The combined volume of the bungalow (348m³) and the out-building (416m³) is 764m³. The proposed house (1235m³) would exceed this by 471m³.

Character and appearance

18. The appeal site is within a small group of dwellings on the south side of Cogshall Lane. There is another group nearby on Hough Lane, and there are several individual buildings in the vicinity. The appeal site is already in residential use, and the principle of the continued presence of a dwelling in this location would not be damaging to the character and appearance of the area.
19. The proposed dwelling would be positioned towards the rear of the site, further from the road than the existing bungalow. There is no clear building line along this part of Cogshaw Lane, and the angled position of the replacement dwelling in relation to the road would not be materially different to that of the semi-detached houses to the west and Cogshall Cottage to the east. On the other side of the latter property, The Barn and Cogshall Lane Farm are set even further back from the road. Construction of the dwelling in the position proposed would be consistent with the linear pattern of development on the south side of Cogshall Lane, and, although the building would be larger than the bungalow, the continued presence of a detached building on the site would not have a damaging effect on the loose-knit grain of the built form. I find that the siting of the proposed dwelling would not have a harmful effect on the character and appearance of the area.
20. Dwellings in the area exhibit variety in their design and use of materials. There are two-storey properties on this part of Cogshall Lane, and Brookside Farm itself is single-story in appearance. The replacement dwelling would have both single and two-storey elements, reflecting both the local built form and a form which is not uncommon in agricultural buildings. Although the front elevation would be clearly wider than the bungalow, the greater part would be single-storey in form. Whilst the two-storey element would emphasise the presence of the replacement dwelling, having regard to the position of the building towards the rear of the site, and tree and shrub cover, I do not consider that the building would be unduly prominent in views from the surrounding area, including from the footpaths to the north and south of Cogshall Lane.
21. The LPA considers that materials proposed for use on the dwelling would be unsuitable. White render is evident on nearby buildings, including the two houses to the west, and Cogshall Lane Farm to the east. Whilst that is not the case for zinc cladding, which would be used on much of the two-storey element, cladding is not an alien feature on buildings in the countryside, and I do not consider that its use in this location would be harmful to the surroundings. Nor do I find the pattern of fenestration to be inappropriate. The arrangement of glazing would break up the mass of the building, particularly in the front and rear elevations of the two-storey element of the house.
22. My attention has been drawn to the design of several proposals concerning the design and siting of replacement dwellings and the design of barn conversions. The full details of these schemes are not before me, and each proposal must be considered on its own merits.
23. I conclude that the proposed development would not have an urbanising impact on the countryside, nor that it would harm the character and appearance of the area. Accordingly, in this respect the proposal would not conflict with Policies STRAT 9 and ENV 6 of the Cheshire West and Chester Local Plan Part One and parts 7(v) and (vii) in Policy DM 19 of the Local Plan Part Two.

Bats

24. An ecological appraisal and bat survey report records the presence of a soprano pipistrelle bat day roost in the east gable apex of the bungalow. Consistent with the recommendation in the report, bat boxes are proposed to be incorporated in the development, and a box is also proposed to be attached to a tree on the Appellant's land.
25. Bats are a European protected species, and, as such, their breeding sites and resting places are protected under The Conservation of Habitats and Species Regulations 2017 (as amended). A licence from Natural England would be required to permit interference with the roost, and an application for a licence would be required to pass three derogation tests. The Courts have established that, when considering a proposal seeking planning permission, there is no need to carry out a detailed assessment as to whether a licence would be granted. This would duplicate the function of another body, and would be contrary to the established principle that other regimes should be assumed to operate effectively.
26. A condition could be imposed to secure the necessary mitigation, and I note that the Appellant reports the view of its ecologist that it is unlikely that a licence application would be unsuccessful. The LPA acknowledges that, with the mitigation measures in place, the bat population would be maintained at a favourable conservation status, and it accepts that there is no alternative which would be less damaging to the roost. However, it considers that the third derogation test, requiring that there are imperative reasons of over-riding public interest, is not met. I am mindful that prior approval for an additional storey to the property has been granted (above, para 9), and this extension would necessitate disturbance to the bat roost. On the basis of all the evidence before me, I have no reason to doubt that a mitigation licence would not be issued.
27. I conclude that, with mitigation measures in place, the proposed development would not have an adverse effect on bats, and that it would not conflict with Policy ENV 4 of the Local Plan Part One and Policy DM 44 of the Local Plan Part Two.

Other considerations

28. The Appellant refers to two proposals to extend the bungalow at Brookside Farm (above, para 9). Given the work which has been undertaken in preparing these schemes, and that together they would provide an alternative way of delivering the additional accommodation sought, I consider that there is a real prospect that the extensions would be built if the appeal is dismissed, provided that the fallback scheme would enable the extended dwelling to provide satisfactory living conditions and the adjacent part of the property to continue to be used effectively.
29. The combined size of the extensions and the existing bungalow would be slightly less than that of the replacement dwelling (above, para 9), and the Appellant suggests that when the removal of out-building No 1 as part of the appeal proposal is taken into account, there would be a greater amount of built form resulting from the fallback position. That assumes that out-building No 1 would remain if the fallback schemes were implemented. However, the site plan which shows the position of both the proposed dwelling and the existing dwelling as extended indicates that that would be unlikely to be the case. This plan shows that the east side extension in the fallback scheme would be positioned immediately before part of the front elevation of out-building No 1. If the out-building were to remain, a

window in the lounge would be obstructed by the out-building, and the extension itself would obstruct access to the out-building.

30. Accordingly, I consider that there is only a real prospect of the extensions being built if outbuilding No 1 is demolished, as proposed in the appeal scheme. In that situation, the built form resulting from the appeal proposal would remain larger than that resulting from the fallback scheme. I am mindful that the Appellant intends to remove the mobile home from the land, but this is not a building, no dimensions have been provided, and it is well-screened by vegetation. Taking all these considerations into account, I give significant weight to the extent of development which could take place on the appeal site through the fallback position.
31. It is intended that the replacement dwelling will be built to a high standard with regard to sustainability principles, providing a thermally efficient home, and using materials which require little maintenance and are renewable. That is something which I would expect any development to achieve, given the emphasis on sustainable development in the NPPF. I have read that the dwelling would enhance the life of the Appellant's family, but there is nothing before me to demonstrate that the existing bungalow, with one or both extensions, could not provide satisfactory living accommodation. The Appellant also argues that the development would provide support for jobs during construction works, but there is no detailed evidence to indicate the number of jobs likely to be supported. These matters carry limited weight in my considerations.
32. It is intended that the scheme would include landscaping, but in this rural area that would be required to assist assimilation of the house into its surroundings, and it is not a benefit of the proposal. Reference is made to the opportunity for beneficial outdoor activities in extensive grounds, but that is the case now, and is not contingent on the appeal proposal. I acknowledge that the proposal would comply with a range of policies in the NPPF, including flood risk, pollution and land stability, but the absence of adverse effects in these matters does not provide benefits to set against the harm to the Green Belt.

Conclusions

33. I have found that the proposed development would comply with the provisions of policies in the Local Plan concerning the character and appearance of its surroundings and protected species. In view of the location of the appeal site within the Green Belt, the most important policies for determining the appeal include Policy STRAT 9 of the Local Plan Part One and Policy DM 21 of the Local Plan Part Two, both of which refer to national policy in the NPPF.
34. The NPPF establishes that very special circumstances to justify inappropriate development in the Green Belt will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The proposal would amount to inappropriate development in the Green Belt, and it would reduce openness. The NPPF makes it clear that any harm to the Green Belt carries substantial weight.
35. The absence of harm to the character and appearance of the area and to bats are not positive factors which provide support for the proposal. Whilst the schemes to extend the dwelling would greatly increase the built form on the site, and the fallback position carries significant weight, the extent of built form would be less

than that resulting from the appeal proposal. Incorporation of sustainability principles in the house, enhanced living conditions, and support for jobs are factors which carry only limited weight.

36. I conclude that the harm arising from the appeal proposal would not be clearly outweighed by other considerations which support the proposal, and that very special circumstances to justify inappropriate development in the Green Belt do not exist in this case. The proposal would conflict with Policy STRAT 9 of the Local Plan Part One and Policy DM 21 of the Local Plan Part Two. In view of the importance of these policies I consider that the appeal proposal would conflict with the Development Plan considered as a whole. For the reasons given above, and having regard to all matters raised, including the suggested conditions, I conclude that the appeal should be dismissed.

Richard Clegg

INSPECTOR