



Appeal Decision

Site visit made on 13 November 2025

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 December 2025

Appeal Ref: APP/R0660/W/25/3370612

Land and buildings off Sandhole Lane, Marthall, Cheshire WA16 8SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Jasper Edwards against Cheshire East Council.
- The application Ref is 24/3164M.
- The development proposed is demolition of existing warehouse building and erection of 4 detached two-storey dwellings.

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing warehouse building and erection of 4 detached two-storey dwellings at Land and buildings off Sandhole Lane, Marthall, Cheshire WA16 8SR in accordance with the terms of the application, Ref 24/3164M, subject to the conditions in the attached schedule.

Preliminary Matters

2. The address given for the location of the proposed development differ between the application and appeal forms. The address given on the appeal form is more accurate than the one given on the application form. For this reason, for the avoidance of doubt, I have utilised the address given on the appeal form.
3. The appeal stems from the failure of the Council to determine the planning application within the prescribed period. No officer report was made available to me. However, the Council did submit an appeal statement which included a list of suggested conditions. This appeal statement also contains a putative reason for refusal which the Council state it would have refused the application on, if it had determined the application. This reason is reflected in the main issue section of this decision.

Main Issue

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any development plan policies, including any relevant effects on the openness of the Green Belt; and,
 - if inappropriate, whether any harm by reason of inappropriateness would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt

5. The appeal site is located within the Green Belt. The Framework sets out at Paragraph 154 that the provision of new buildings in the Green Belt should be regarded as inappropriate other than for certain exceptions. The appellant suggests that the appeal proposal would meet the exception in Paragraph 154 (g) of the Framework. This exception is concerned with limited infilling or the partial redevelopment of previously developed land.
6. Policy PG3 of the Cheshire East Local Plan Strategy 2017 (LP) seeks to protect the Cheshire East Green Belt. In that respect, its aims are broadly consistent with the Framework. Nevertheless, point vi outlines similarly to the Framework that limited infilling or the partial or complete redevelopment of previously developed sites would be an exception to the construction of new buildings in the Green Belt. However, when assessing the impact on openness, it states that it must not have a greater impact. But, the Framework notes that the harm to openness must not cause substantial harm. As such, Policy PG3 is out of step with the Framework. I have therefore afforded substantial weight to the Framework with regard to this main issue.
7. The exception found at Paragraph 154 (g) of the Framework states that development in the Green Belt should be regarded as inappropriate unless it is a proposal for limited infilling or the partial or complete redevelopment of previously developed land (PDL), which would not cause substantial harm to the openness of the Green Belt. The parties agree that the site should be regarded as PDL and on the evidence before me, I have no reason to take a different view.
8. I shall now turn to the effect of the development on openness. Openness is a fundamental attribute of the Green Belt, encompassing both spatial and visual aspects. The existing warehouse building is of a notable size. Whilst its footprint is relatively small when compared to the plot in which it sits, its extent of hardstanding makes up a large area to its front. This area could be used for the parking of vehicles of contrasting uses and sizes. If the lawful use of the warehouse building continued, its associated activities would have some implications on openness.
9. In considering the spatial implications of the proposed development, it is noted that the parties disagree on whether the scheme would result in an increase or decrease in the built footprint, volume, and ridge height of structures within the appeal site.
10. Upon review of the proposed plans, I observe that the ridge heights of the proposed dwellings are clearly annotated and appear to be broadly comparable to those of the existing building. Regarding footprint, although there is no consensus on the precise measurement, both parties acknowledge that the development would result in an increase. Based on my analysis and planning judgment, I find that either suggested increase would not constitute a disproportionate or substantial spatial increase when assessed against the existing footprint of the warehouse building. Turning to volume, the appellant contends that the proposal would lead to a minor reduction, whereas the Council maintains that it would result in an increase. Even in accepting the Council's position, the projected increase in

volume would not, in my view, represent a disproportionate escalation relative to the existing built form.

11. I shall now turn to the visual implications of the scheme on the Green Belt. Plots three and four would be broadly positioned within the footprint of the existing warehouse building and would maintain a comparable overall height. As such, this element of the proposal is not considered to give rise to unacceptable visual implications on the openness of the Green Belt.
12. Plots one and two, however, would be located on the hardstanding area situated to the front of the existing warehouse. While the Framework's definition of PDL includes extensive areas of lawfully developed hardstanding, the introduction of two buildings on this area, particularly given their height relative to the existing hardstanding, would have a more pronounced impact on openness.
13. The Council contend that in addition to the presence of dwellings, residential gardens and domestic paraphernalia would also cause harm to the Green Belt. The presence of refuse bins associated with this small number of dwellings would have a negligible impact on the openness of the Green Belt. The introduction of domestic gardens would have a limited effect on openness. Whilst the introduction of fences to divide each plot would compound the residential appearance of the appeal site, the development would nevertheless retain large areas of green space. The presence and movement of vehicles in this area would have a negligible effect on openness. In addition, in light of the established lawful use of the building, I conclude that vehicles, of various sizes and uses could be parked within the appeal site in its current form. The proposed development would have a similar effect upon openness.
14. To conclude, this proposal would have implications for the openness of the Green Belt in visual terms. The provision of the building forms which make up plots one and two beyond the footprint of the existing warehouse would cause substantial harm to the openness of the Green Belt. The proposal would not therefore benefit from the exception in Paragraph 154 (g) of the Framework.

Other considerations

15. The proposal would be inappropriate development in the Green Belt. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations as set out at Paragraph 153 of the Framework.
16. In addition to the main issues listed above, the Council did identify that the proposed development would also attract technical conflicts with the LP. These matters have not been identified as determinative, but nevertheless, I have come to a view on these matters to establish an appropriate balance of the considerations before me.

Loss of employment

17. In following the history of the appeal site, the existing warehouse building was a source of employment, albeit limited. Policy EG3 of the LP requires existing employment sites to be protected for employment use. The proposal would result in a loss of an employment site and therefore would conflict with Policy EG3.

However, the evidence before me suggests that this employment was limited to one individual and therefore, this matter attracts very limited additional weight in terms of harm.

Sustainable location

18. The Council note that Policies PG1 and MP1 of the LP identify sustainable locations for development. These policies seek to direct development to built-up areas. However, Policy SD2 of the LP sets out that development must follow Sustainable Development Principles, specifically, that residential development will be expected to provide access to a range of public transport, open space and key services and amenities. The appellant notes that the site is located a short walk from Chelford Road where there is a bus stop for local bus routes. However, this statement is anecdotal. It is not backed up by a position indicator on a map, nor is the schedule of this service provided. I must therefore conclude that the proposal would conflict with the aforementioned policies on this issue.
19. However, the appellant has identified a previous decision taken by the Council to allow a development for the construction of dwellings at New Barn Farm. This example is located a short distance away along Chelford Road. In this example, the Council identified various individual facilities which were certain distances from New Barn Farm. With regard to two of these facilities, the appeal proposal would be located further from them than New Barn Farm.
20. Nevertheless, I have taken into account the locational context of the appeal site in relation to the village of Chelford. Chelford benefits from a range of services, including a railway station, shops, and a school. Crucially, the appeal site lies closer to Chelford than New Barn Farm. Comparable types of services discussed within the New Barn Farm example can similarly be found within Chelford. Therefore, although the proposed development would conflict with Policies PG1, MP1 and SD2 of the LP, material considerations on this specific issue lead me to conclude that a decision should be taken other than in accordance with the development plan.

Housing mix and density

21. The proposed development comprises three four-bedroom dwellings and one three-bedroom dwelling, the latter of which includes a study of sufficient size to function as an additional bedroom. Policy SC4 of the LP and Policy HOU1 of the Site Allocations and Development Policies Document 2022 (SADPD) require that housing developments provide a mix of house types, sizes, and tenures. Accordingly, the proposed scheme would conflict with both Policy SC4 of the LP and Policy HOU1 of the SADPD due to its limited housing variety.
22. In addition, Policy HOU14 of the SADPD stipulates that new residential development should achieve a net density of 30 dwellings per hectare. The Council has indicated that the proposed development would result in a site density of approximately 11.7 dwellings per hectare. Consequently, the proposal would also be contrary to Policy HOU14 of the SADPD.

Summary

23. To summarise on these technical conflicts with the development plan which were identified by the Council, I do acknowledge that the proposal would conflict with

the development plan with regard to the mix of housing proposed and its density. These specific matters attract limited weight, but nevertheless weigh against the proposal in my decision.

24. The proposed development would also conflict with the development plan with regard to the loss of employment sites. However, in taking the specific circumstances surrounding this employment into account, this attracts a very limited additional weight in terms of harm. Turning to the location of the appeal site, material circumstances on this specific issue dictate that a decision should be taken other than in accordance with the development plan.

Fallback position

25. I am cognisant of a previously granted Lawful Development Certificate (LDC) for an extension to the existing warehouse building on the appeal site. Although this fallback position has not yet been implemented, the granting of the LDC confirms its lawfulness. The evidence before me indicates that the approved extension would result in a substantial increase in the built form of the existing structure. This would create a coherent, significantly sized individual building. Given the lawful status of the proposed extension and the absence of any clear impediment to its implementation, I consider there to be a genuine prospect that this fallback position could be pursued in the event that this appeal is unsuccessful. The implementation of the LDC would result in additional built development on the site, further extending the footprint and massing of the existing warehouse.
26. The harm identified above primarily relates to the visual impact arising from the positioning of plots one and two beyond the footprint of the existing warehouse building on openness. Upon review of the submitted plans, it is evident that the dwelling proposed for plot two would be situated within the extended footprint of the existing building as defined by the fallback position. Visually, this dwelling would occupy an area where built form is anticipated, and its ridge height would be broadly comparable to that of the existing structure. Accordingly, the introduction of plot two is not considered to materially affect the visual openness of the Green Belt when assessed against the fallback position before me.
27. In contrast, the majority of plot one would be located outside of the extended footprint associated with the fallback position. As such, the siting of plot one in an area which is and would be void of built form would continue to give rise to visual implications for the openness of the Green Belt.
28. It is important to reiterate that the test found in Paragraph 154 (g) of the Framework is whether the proposed development would cause substantial harm to the openness of the Green Belt. Accordingly, the determination of this appeal centres on whether the siting of plot one beyond the fallback footprint would amount to substantial harm to the openness of the Green Belt.
29. Both parties acknowledge that the established fallback position would result in a greater numerical footprint and volume than the proposed development. The proposed dwellings would also maintain a ridge height broadly comparable to that of the existing warehouse building and its permitted extension. The extension approved under the fallback position would yield a substantial built form, within which plots two, three, and four of the proposed development would be sited. These dwellings would occupy the same footprint and exhibit a similar overall height, thereby aligning closely with the scale and massing of the fallback scheme.

The creation of four separate dwellings however would promote visible gaps between them. This would have less of an effect on openness when compared to the fallback position of the existing building.

30. Having considered all relevant factors in combination, I am not persuaded that the presence of the dwelling which would occupy plot one, nor the cumulative impact of four detached dwellings and their associated domestic paraphernalia, would result in substantial harm to the openness of the Green Belt when assessed against the fallback position established. The fallback position, which benefits from a LDC, carries substantial weight in my overall assessment.

Housing land supply and development benefits

31. In their response to this appeal, the Council noted that its current housing land supply position is 3.8 years. In an era of national, and in this instance, local housing shortages, the provision of 4 units would assist in increasing the supply of housing across Cheshire East. The development would occupy an area of previously developed land a close distance from the village of Chelford. These matters attract moderate weight in favour of the proposal.
32. The proposal would also provide economic benefits during the construction period. The future occupiers would also provide economic benefits to the nearby area once the development would be complete through their use of nearby shops and services. These matters attract limited yet additional positive weight.

Conclusion

33. In conclusion, I find that the established fallback position, the identified shortfall in housing land supply within Cheshire East, and the broader benefits arising from the provision of four family-sized dwellings collectively contribute significantly to the planning balance. In my assessment of the appeal, these factors clearly outweigh the identified harm to the Green Belt and the other considerations raised by the Council. I therefore conclude that very special circumstances exist which justify the proposed development.

Other Matters

34. Comments were received from interested parties and consultees. Concern is raised with the effect of the development upon the character and appearance of the area. The Council note that the scheme would provide a positive addition to its surroundings, responding suitably to the location of the appeal site and its proposed scale. In my assessment of this matter, the proposal would promote a typical built form and appearance which responds to its surroundings within Cheshire.
35. The effect of the scheme on drainage and flood risk has also been raised. I note that relevant consultees on this matter raise no objection to the scheme subject to the imposition of conditions which would secure detailed drainage design. The use of such conditions and their necessity is explored later within this decision.

Conditions

36. The Council did indicate which conditions it wanted to be considered in the event that the appeal was allowed. In assessment of these conditions, I have undertaken minor changes to meet the six tests and I have consulted the parties on this

wording. Neither party raised any objection to the suggested wording of the conditions which they were consulted on.

37. In addition to the statutory time condition [1], a condition specifying the approved plans [2] and the submission of the details of materials to be used in the construction of the external faces of the development [3] are justified in the interest of certainty. A further condition related to materials, which requires the erection of a sample panel on site [4], is necessary to ensure that the proposed bricks, face-bond and pointing mortar are appropriate, in the interests of the appearance of the development. A condition which restricts the permitted development rights of the plots within the appeal site [5] is necessary in protecting the openness of the Green Belt.
38. A condition which restricts the removal of any vegetation, unless a detailed survey has been carried out [6], is necessary in the interests of safeguarding biodiversity. Furthermore, the imposition of a condition which requires the submission of a strategy for the incorporation of features to enhance the biodiversity value [7] is necessary to achieve and safeguard biodiversity within the appeal site. This condition has not adopted the full suggestion made by the Council. The suggested condition stipulated the measures which would need to be provided. However, as a biodiversity strategy would be required to be submitted, other options may be explored within the strategy which could be suitable. A condition which stipulates that the visibility splays proposed shall be in situ prior to the first occupation of the development [8] is necessary in the interests of highway safety.
39. To ensure that the development is suitable for its end use and future occupiers, a condition which requires the submission of a remediation scheme [9] is necessary. Furthermore, a condition which requires the testing of imported soil for contamination and the relevant information submitted to the Council is required [10], as is a condition which requires the developer to report any unexpected contamination to the Council [11]. This is necessary to protect the future occupants and neighbouring land from contamination. In connection with matters relating to contamination, the Council did suggest a condition which related to the submission of a Verification Report. This requirement has been brought into the requirements of condition 9.
40. A condition requiring that a detailed service and foul and surface water drainage layout shall be submitted to and approved in writing by the Council [12] is included. This condition is necessary and required to ensure that trees are not harmed post construction from foul and surface water drainage. A condition which requires the submission and approval of a surface water drainage scheme for the site [13] is necessary to ensure that appropriate drainage is incorporated into the development to ensure that there would be no flood risk from the development. A condition has been included which requires development to be undertaken in complete accordance with specified tree protection and special construction measures [14]. This is necessary to ensure that nearby trees which are to be retained are protected from harm during the course of the development of the scheme. A condition which requires the submission of the details of hard and soft landscaping [15] is necessary to ensure that the final appearance of the development is appropriate.

Conclusion

41. In conclusion therefore, the proposed development would be in conflict with the Framework with regard to its effect upon the Green Belt. It would also be in conflict with the LP and SADMP. However, once other material considerations, including the Framework and the very special circumstances cited in this case are taken into account, I find that permission should be granted. Therefore, the appeal should be allowed.

J Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawing numbers:
 - 22-J4124-LP01 REV B (Location Plan)
 - 22-J4124-003 REV D (Proposed Site Plan)
 - 22-J4124-005 REV A (Proposed Boundary Treatment)
 - 22-J4124-101 REV B (Plot 1- As Proposed)
 - 22-J4124-104 REV B (Plots 2 & 4 – As Proposed)
 - 22-J4124-103 REV B (Plot 3 – As Proposed)
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development above ground level shall take place until sample panels of all new facing brickwork showing the proposed bricks, face-bond and pointing mortar have been provided on site and approved in writing by the local planning authority. The approved sample panels shall be retained on site until the work is completed and the development shall be carried out in accordance with the approved sample panel details.
- 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 Classes A, B and E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 6) Notwithstanding the approved details, no removal of vegetation or the demolition of the existing building shall take place between 1st March and 31st August inclusive (bird nesting season) unless it has first been surveyed for nesting birds by a qualified ecologist. If nesting birds are found, a scheme for the protection of nesting birds shall be submitted to and approved in writing by the local planning authority. Once such a scheme has been approved, the works within the bird nesting season shall only be carried out in accordance with the approved scheme.
- 7) Prior to the commencement of the new development, the applicant shall submit a strategy for the incorporation of features to enhance the biodiversity value of the proposed development. The submitted strategy should include proposals for the provision of features for roosting bats, hedgehogs and nesting birds including house sparrow. The proposals shall be permanently installed in accordance with the approved details.
- 8) Prior to the first occupation of the development, the visibility splays shown on Focus Transport Planning drawing numbers J000448-VISI101 and J000448-VISI102 shall be in situ and remain free of any obstruction exceeding 1.0m in height and shall be retained as such thereafter.

- 9) No development shall take place where (following a risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority.

The scheme shall include an appraisal of remediation options, identification of the preferred options, the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.

The approved remediation scheme shall be carried out and upon completion, a Verification Report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.

- 10) The development hereby permitted shall not be begun until a Desk Study to assess the suitability of any subsoil and/or topsoil material to be imported onto the land has been submitted to and approved in writing by the local planning authority.

The Desk Study shall set out details of the sampling regime and analysis carried out to ensure that the proposed material shall not pose a risk to human health as defined under Part IIA of the Environmental Protection Act 1990. No subsoil or topsoil material shall be imported unless it has been approved by the local planning authority. The developer shall subsequently test samples of any imported subsoil or topsoil material on the land and submit its results to the local planning authority as required to verify that the imported soil is free from contamination in accordance with the approved scheme.

- 11) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

- 12) Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed service and foul and surface water drainage layout shall be submitted to and approved in writing by the Local Planning Authority (notwithstanding any additional approvals which may be required under any other Legislation). Such layout shall provide for the long-term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service / drainage layout.

- 13) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharge and the measures taken to prevent pollution of the receiving groundwater;
- ii) be designed in accordance with the drainage hierarchy (Non-Statutory SuDS Technical Standards Guidance (2016) Paragraph 3.7);
- iii) provide the details of pipe diameters, slope angles, cover levels and invert levels;
- iv) include a timetable for its implementation; and,
- v) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 14) No development or site clearance shall take place except in complete accordance with the tree protection and special construction measures identified in the Arboricultural Impact Assessment and Method Statement (293/R/200 dated July 2023) and Tree Protection Plan (293/AMS/T/301- Rev P01), with measures to be implemented under Arboricultural supervision in accordance with BS 5837:2012 Trees in relation to design, demolition and construction.

The measures shall remain in situ before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

- 15) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- a statement setting out the design objectives and how these will be delivered;
 - details of hard-landscaping and all boundary treatments;
 - plans for soil management, including reservation and re-use of existing site-soils, volumes of any excavation or importation, temporary stockpiling details, locations for re-spreading and haulage routes; and
 - planting plans with written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment) and schedules of plants (noting species, plant sizes, the proposed numbers and densities); and,

- an implementation programme, [including phasing of work where relevant].

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.