



Appeal Decision

Site visit made on 17 February 2026

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 31st March 2026

Appeal Ref: APP/A0665/W/25/3374956

Crown Inn Farm, Crown Lane, Lower Peover, Knutsford, Cheshire WA16 9QB

- 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 outline planning permission.
- The appeal is made by Mr P Duffy of Beluga Group Ltd against Cheshire West and Chester Council.
- The application Ref is 25/01903/OUT.
- The development proposed is outline application for the erection of nine detached dwellings, including the matters of layout and means of access.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is against the failure of the Council to determine the application within the prescribed time period. In its evidence to the appeal, the Council states that, had it been in a position to determine the application, it would have refused it for substantially the same reasons the previous planning application was refused and subsequently dismissed on appeal¹. The Council identifies additional putative reasons for refusal relating to Biodiversity Net Gain (BNG) and residential amenity.
3. The appeal relates to an outline planning application, with the means of access and layout to be considered. Therefore, I have taken into account the Proposed Site Layout plan insofar as it illustrates the layout of the dwellings and the access.

Main Issues

4. Therefore, the main issues are:
 - i) Whether the location is suitable for residential development, having regard to local and national policies for housing and the accessibility of services, facilities and sustainable transport modes;
 - ii) The effect of the proposal on protected species, particularly bats;
 - iii) Whether the proposal would deliver statutory BNG requirements;
 - iv) The effect of the proposal on the efficiency of Jodrell Bank Radio Telescope;
 - v) Whether the proposal would achieve satisfactory standards of residential amenity for neighbouring and future occupiers; and
 - vi) Whether the proposal would make adequate provision for affordable housing.

¹ Ref APP/A0665/W/25/3364367

Reasons

Whether the location is suitable for residential development

5. The appeal site is a former farmstead comprising several large modern agricultural buildings and associated land. It lies to the west of Crown Lane, to the rear of the Crown Inn public house. It is in a small rural settlement in the open countryside.
6. As noted by the previous Inspector, the location is not identified in the Council's settlement hierarchy. Development in this location conflicts with the Council's spatial development strategy as set out in Policy STRAT2 of Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (2015) (LP1). Moreover, the proposal would not be a form of development permitted in the countryside under LP1 Policy STRAT9 or Policy DM19 of Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (2019) (LP2).
7. Future occupiers would be able to walk to a convenience store, school, church and public houses. However, the limited services and facilities would not meet the daily needs of future occupiers. Larger settlements elsewhere in the area are not realistically accessible by sustainable transport including walking, cycling and public transport. As future occupiers would be heavily reliant on private vehicles, the appeal site is not a sustainable location for new residential development.
8. Therefore, I conclude that the location is not suitable for residential development. The proposal would conflict with the aims of LP1 Policies STRAT1, STRAT2 and STRAT8 and LP2 Policy DM19. These seek, among other things, to locate development in accessible and sustainable locations and to restrict development in the countryside subject to limited exceptions.

Protected Species

9. In addition to modern steel framed agricultural buildings, there is also an older 2-storey brick barn with pitched slate roof (building B1). This is in a somewhat poor state of repair, but it is highly suitable for use by roosting bats (Tyrer Ecology, 2025. Preliminary Ecological Appraisal). Accordingly, in accordance with the Bat Conservation Trust Good Practice Guidelines, 3 dusk emergence surveys were carried out during the bat active season in summer 2025². These evidence that building B1 contains a day roost for a single common pipistrelle bat, a single soprano pipistrelle bat and three brown long-eared bats.
10. Demolition of building B1 would result in the destruction of bat roosts, and it could result in the killing or injuring of bats, which would be offences under the Conservation of Habitats and Species Regulations 2017 (as amended) unless the works were carried out under a European Protected Species Mitigation Licence. Natural England is the relevant licensing body but nevertheless I am required to have regard to the legislation and consider the likelihood of a licence being issued, having regard to the 3 legal licensing tests.
11. The bat survey report outlines mitigation measures that would inform a licence application. These include replacement roosting provision, precautionary working methods to avoid killing or injuring bats, and a scheme of bat friendly lighting. The Council accepts that implementation of the proposed mitigation would maintain the favourable conservation status of the bat species affected, which is the third

² Tyrer Ecological Consultants Ltd, 2025. Dusk Survey Results.

licensing test. I also find that the proposed mitigation would avoid harm to bats and it would be adequate to maintain the population of bats in the longer-term.

12. The first licensing test requires that the development be for purposes of preserving public health or public safety, or other imperative reasons of overriding public interest including those of a social or economic nature. For housing development, a grant of planning permission is generally considered to demonstrate that the test relating to imperative reasons of overriding public interest has been met.
13. The second licensing test requires that there is no satisfactory alternative. In this regard, the Council considers that there are alternatives that would result in less or no harm to bats, including policy-compliant development in an alternate location or a 'do nothing' approach whereby building B1 is not demolished. While that may be the case, if the application was considered to meet the overriding public interest test then I cannot be certain that it would fail the second licensing test.
14. I am only required to consider the likelihood that a licence would not be granted and not to determine whether the legal tests for a licence would be met, which would unnecessarily duplicate the function of another regulatory body. Based on the evidence before me, I am satisfied that the proposed mitigation would be adequate to ensure that significant harm to bats and their roosts would be avoided, and this could be secured by the imposition of planning conditions. Consequently, if the proposal was otherwise acceptable and planning permission was granted, then I have no reason to think that a licence would not be issued.
15. Therefore, I conclude that the proposal would not harm bats or their roosts. As such, it would not conflict with the biodiversity protection aims of LP1 policy DM44.

Biodiversity Net Gain (BNG)

16. The Planning Practice Guidance (PPG) sets out that BNG is a statutory requirement. Subject to some exceptions, every grant of planning permission is deemed to have been granted subject to a pre-commencement condition (the biodiversity gain condition) that the biodiversity gain objective of delivering at least a 10% increase in biodiversity value is met.
17. In this case, the Biodiversity Net Gain Assessment (Tyrer Ecology, 2025) sets out that the proposal would result in a net increase in biodiversity through the creation of neutral grassland and hedgerow enhancement. However, the submitted biodiversity metric does not account for a tree in the appeal site which would be removed to facilitate the proposal. As a result, the pre-development biodiversity value of the site, the baseline for the purposes of calculating net gain, is incorrect and the trading rules have not been met.
18. The Council's Biodiversity Officer and the appellant's ecologist agree that the tree should be included in the metric and that the trading rule error could be remedied by the planting of 3 trees in the post-development biodiversity enhancement area, this being a narrow strip of land between the boundary and the internal access serving plots 3-5. However, the metric has not been updated to account for the tree nor is there a plan to illustrate the habitat creation and tree planting.
19. Nevertheless, as the PPG explains, the determination of the Biodiversity Gain Plan (BGP) under the statutory pre-commencement biodiversity gain condition is the mechanism to confirm whether or not the development meets the biodiversity gain

objective. Development may not be begun until the BGP is approved. Given this, it is appropriate to consider in broad terms whether the biodiversity gain condition is capable of being successfully discharged, but it is generally inappropriate for planning permission to be refused for a development subject to biodiversity net gain on grounds that the biodiversity gain objective will not be met.

20. I also note the concerns of the Council as to whether or not the onsite habitat creation and enhancement would be significant, the need to secure it by planning condition or legal agreement and possibly requiring a reporting and regulatory fee. However, taking into account the outline nature of the proposal and the matters reserved, the size and nature of the habitats in question, and the views of the Biodiversity Officer, I see no fundamental reason why the biodiversity gain condition could not be discharged if I was to allow the appeal.
21. Therefore, I conclude that the proposal would not result in a net loss, and it would deliver a net gain, of biodiversity value. Accordingly, it would not conflict with the biodiversity protection and enhancement aims of LP2 Policy DM44.

Jodrell Bank Radio Telescope

22. The appeal site is just over 6km from the Jodrell Bank Observatory (JBO), as the crow flies. This is within the Jodrell Bank Radio Telescope Consultation Zone, where LP2 Policy DM12 supports development that would not impair the efficiency of the Jodrell Bank Radio Telescope, subject to relevant development plan policies.
23. The JBO is the UK's primary radio astronomy facility. Its Lovell Telescope is the third largest steerable radio telescope in the world and one of the most productive radio telescopes in terms of pulsar research, with pulsar timing currently one of the most important and internationally significant research programmes. In recognition of its achievements and continuing role in transforming our view of the universe, the JBO is designated as a World Heritage Site (WHS) and as such internationally acknowledged to be of Outstanding Universal Value.
24. The effective functioning of the JBO depends upon the accuracy of measurements and hence a radio-quiet location with low levels of radio interference. Existing electrical and electronic equipment in the area is known to interfere with the efficient operation of the JBO in terms of its ability to receive radio emissions from space. Additional radio interference from new development resulting in further degradation of pulsar timing measurements could threaten the operation of JBO.
25. The submitted Jodrell Bank Impact Assessment (JBIA) comprises a technical modelling assessment of the emissions from the proposal. It is based on a number of assumptions and input parameters. It assumes that the majority of emissions would come from inside the buildings with only sporadic and short term use of electronically operated appliances outdoors. It makes assumptions about the proposed floor area, number of storeys and likely windows facing JBO. It assumes mitigation including non opening and low emissivity openings and well fitted foil backed plasterboard. It concludes that the proposal would result in interference 13% smaller than the International Telecommunications (ITU) threshold, but it would increase electromagnetic interference for about 4% of pulsar observations.
26. The Council accepted the JBIA during the processing of the planning application. This was after the University of Manchester (UoM), who operate and maintain the JBO, had responded to the Council's consultation. I note that the UoM was

reconsulted on the JBIA but it did not provide further comments. However, it had provided detailed analysis and comments in objection to the earlier refused scheme and its analysis in respect of the planning application subject of this appeal again led it to conclude that the development would impair the efficient reception of radio emissions from space by the JBO telescope.

27. The UoM acknowledges that, in certain directions, existing residential development produces interference that far exceeds the ITU threshold. Nevertheless, it emphasizes that continued degradation arising from development that in isolation may only generate smaller incremental impacts on interference will contribute to cumulative impacts that would reduce the international competitiveness and thereby standing of the research carried out by the Jodrell Bank telescopes.
28. The JBIA refers to representations made by the UoM in relation to an appeal³ in Allstock but does not refer to the UoM analysis of the earlier refused scheme at this site nor indeed to the UoM consultation response made in relation to this proposal. In his final comments, the appellant acknowledges the Council's position but simply refers back to the JBIA as evidence of an absence of harm and he does not address the particular points raised by the Council and the UoM.
29. I have no reason to dispute the conclusion of the JBIA but I am mindful that the output of the model will vary depending on the inputs. For example, the proposal relates to an outline application with matters of scale and appearance not included. While the proposed layout indicates the footprint and arrangement of dwellings, it does not definitively specify the height and scale of buildings or their internal layout and associated habitable room windows. There is little certainty that windows could be avoided facing the JBO or that it would be reasonable to specify or enforce that windows would be non opening. Also, I note that the JBIA refers only to outdoor equipment such as cordless drills and lawnmowers and is silent on the implications in terms of emissions arising from any increasingly necessary domestic renewable and low carbon energy equipment.
30. Consequently, I cannot be certain that all of the model input assumptions would hold true. It is not clear what difference even relatively minor adjustments to inputs might make in terms of overall predicted emissions and hence impacts on the efficient functioning of the JBO. Moreover, having found that pulsar observations would be detrimentally affected, the JBIA does not appear to consider whether the proposal could result in significant cumulative adverse interference on the JBO in combination with other development in the zone of influence.
31. Therefore, balancing the views of the appellant's consultant and the operators of the JBO, taking into account the uncertainties and the high level of protection afforded to the JBO, and the acknowledged harm to pulsar observations, I conclude that the proposal would impair the efficiency of the Jodrell Bank Radio Telescope. This would conflict with LP2 Policy DM12.

Residential and visual amenity

32. The previous application was not refused on grounds relating to adverse impacts on residential amenity, despite being a higher density development of 12 dwellings. However, that scheme was an outline proposal with matters of appearance, landscaping, layout and scale reserved for later consideration. It therefore differs

³ Ref APP/A0665/W/22/3293862

from this proposal, which includes consideration of layout and access. On the basis that the proposed site layout illustrates the arrangement of dwellings, a preliminary assessment can be made of potential impacts on residential amenity.

33. LP2 Policy DM2 requires development to safeguard the quality of life for residents, including in relation to outlook and privacy. The explanatory text sets out that in order to achieve acceptable levels of residential amenity for future occupiers, there should normally be a minimum separation distance of 21m between habitable room windows and 13m between principal habitable room windows and blank walls.
34. Dwellings 1-5 would be linearly arranged to the rear, and roughly north west, of Crown Lea. Dwellings 6-8 would be linearly arranged to the rear of the Crown Inn and its car park, extending between the neighbouring property Langdale and the internal access road. Dwelling 9 would be roughly in the location of building B1, close to the rear of the public house. Dwellings 9 and 6 would be roughly 14m apart. Dwelling 1 would be roughly 10m from the side elevation of Dwelling 6.
35. Dwellings 9 and 6 would have principal elevations facing one another, resulting in close and unacceptable overlooking and loss of privacy between habitable room windows. Dwelling 9 would be further compromised by the proximity of its rear elevation and private outdoor amenity space to the rear of the public house. The small dwelling would span the width of its relatively small plot and it would be bounded by the public house and internal roads. Dwellings 6 and 9 would not provide a high standard of residential amenity with particular regard to overlooking and loss of privacy and, in respect of Dwelling 9, noise from neighbouring uses.
36. The principal elevation of Dwelling 1 would closely face the side elevation of Dwelling 6. It would fail to achieve the minimum separation between habitable room windows and blank elevations. Consequently, there would be a poor outlook from principal habitable room windows in Dwelling 1. If there were habitable room windows in the side elevation of Dwelling 6, then the future occupiers of both dwellings would also overlook one another with resultant loss of privacy.
37. Dwelling 8 would be very close to the boundary and the neighbouring dwelling, Langdale. There would be an extensive quantum of built development adjacent to the side elevation of Langdale and along the shared boundary with the neighbours' rear garden. Taking into account the proximity and height of even a single storey dwelling, and the orientation of Langdale, the proposal would be an unneighbourly form of development that would be overbearing and detrimental to the residential amenity of the neighbouring residential occupiers.
38. The Council also raises concerns in relation to visual amenity. In this regard, I observed a range of property sizes and styles in the area including semi-detached and detached and both single and two-storey. Undoubtedly, the layout would not be in keeping with the ribbons of more closely spaced semi-detached dwellings along the road. At least some of the dwellings would appear to have disproportionately large footprints and hence scale compared to existing dwellings in the area. However, the appeal site is set back from the road behind built development. The proposal would not be prominent in the street scene. Moreover, as matters of design and appearance are not before me, I cannot be certain that an acceptable standard of visual amenity could not be achieved.
39. Therefore, I conclude that the proposal would not result in a satisfactory standard of living conditions and residential amenity for future and neighbouring residential

occupiers. Accordingly, the proposal would conflict with the aims of LP1 Policy SOC5 and LP2 Policy DM2. These require, among other things, that development meets the health and well-being needs and safeguards the quality of life of residents. However, based on the layout alone I have no reason to find that the proposal would significantly harm the character and appearance of the area. As such, I find no conflict with LP2 Policy DM3 in relation to a high standard of design that respects the character and protects the visual amenity of the area.

Affordable housing

40. Policy SOC1 of LP1 sets out that affordable housing will be sought as part of new residential development in rural areas where the site has a capacity of three or more dwellings or comprises an area of 0.1ha or more. The Council will seek to maximise the proportion of affordable housing up to a target of 30%.
41. While the proposal would be 9 dwellings, the site area is apparently 0.51 ha. Therefore, it appears to meet the Framework definition of major housing development and I am not aware that the proposal should be precluded from delivering affordable housing by policies in the Framework. However, no completed planning obligation, such as would be necessary to secure the affordable housing provision, has been provided.
42. The Inspector in the previous appeal was similarly not provided with a planning obligation to secure affordable housing, the absence of which meant that scheme conflicted with LP1 Policy SOC1 and it weighed significantly against that appeal. That Inspector also drew attention to the Procedural Guide: Planning appeals – England, which states that for appeals following the written representations procedure the appellant must ensure that an executed and certified copy of the planning obligation is received at the time of making their appeal.
43. The evidence indicates that, at the time he made this appeal, the appellant contacted the Council to progress a S106 agreement and it was his intention to provide a legal agreement to the appeal when it was ready. The Council agreed to draft a legal agreement and it requested property valuations in order to secure discounted market housing for 2 dwellings. The appellant declined to provide the valuations and requested that the Council exercise its discretion instead.
44. Upon further review, the Council's Strategic Housing Team deemed it inappropriate to proceed with a legal agreement. This is on the basis that the plot sizes and property types would result in values that would not be affordable by persons in need of affordable housing. None of the plots would apparently be suitable as discounted market sale affordable housing. The mix and type of properties would therefore need to be amended to include smaller and semi-detached dwellings such as would be capable of providing affordable housing.
45. In December 2025, the appellant stated that because the appeal relates to an outline application with only access and layout considered, the necessary affordable housing could be designed at the reserved matters stage. He also considered that the Council's refusal to draft a s106 was unreasonable and stated that he would instead provide a Unilateral Undertaking (UU) to the appeal. However, despite the passage of time, no UU has been provided.
46. As an alternative solution, the appellant suggests that the requirement for affordable housing could in effect be circumvented by imposing a planning

condition to restrict the amount of floor area in the reserved matters to less than 1000sqm. Although not clarified, this appears to refer to the definition of non-residential major development in the Framework. However, the proposal would be residential development for which different thresholds apply. The absence of a legal obligation and thereby affordable housing is not a matter that could be satisfactorily addressed by planning condition.

47. Therefore, I conclude that the proposal would fail to deliver affordable housing. Accordingly, it would conflict with the affordable housing aims of LP1 Policy SOC1.

Planning Balance

48. The dwellings would contribute to the government's objective of significantly boosting the supply of housing. There would be short-term economic benefits during construction. Future occupiers would contribute to the local economy. Taking into account the scale of the proposal, these collectively carry moderate weight in favour of the proposal. BNG would also be a benefit which, given the low baseline value and proposed enhancements, carries limited positive weight.
49. On the other hand, the location is not suitable for housing, taking into account the relevant development plan policies, the limited accessibility of services and facilities and consequent reliance on private car journeys. This attracts significant negative weight. As the previous Inspector found, in the context of an identified need, the failure to secure affordable housing weighs significantly against the proposal. The failure to achieve a high standard of residential amenity for existing and future users weighs significantly against the scheme.
50. The designation of the JBO as a WHS relies upon the efficient functioning of the telescopes. As the proposal would be detrimental to the operation of the JBO, it would erode the significance of the designated heritage asset. This harm would be at the lower end of less than substantial harm but nevertheless of considerable importance and weight. Paragraph 215 of the Framework advises that any such harm should be weighed against the public benefits of the proposal. In this case, the collectively moderate public benefits would not outweigh the harm to the WHS, taking into account the great weight afforded to the conservation of internationally important heritage assets. This weighs against the proposal to a significant degree.
51. Paragraph 11d) of the Framework sets out that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless clauses 11d)i. or ii. provide a reason for refusing it. Footnote 8 sets out that this applies to situations where the Council cannot demonstrate a five year supply of deliverable housing sites (5YHLS) or where the Housing Delivery Test (HDT) indicates that the delivery of housing was substantially below the housing requirement over the previous 3 years.
52. In this case, the Council is unable to demonstrate a 5YHLS. At the time of the previous appeal in September 2025, the Council's housing supply stood at 1.89 years which is a significant shortfall in deliverable housing sites. There is little evidence before me to demonstrate that the housing supply position has changed in the intervening time. Consequently, paragraph 11d) is engaged.
53. In terms of whether or not the most important policies are out-of-date, LP1 and LP2 are now somewhat old. However, the weight attached to development plan policies

relate not to age but to the degree of consistency with policies in the Framework. In this regard, the Framework directs new housing to suitable accessible locations that promote sustainable transport modes and limit car journeys. It promotes affordable housing as part of its overall objective of boosting the supply of homes. It supports the creation of well-designed places with a high standard of residential amenity for existing and future users. It also notes that WHS are irreplaceable assets and should be conserved in a manner appropriate to their significance, which is of the highest order. Consequently, significant weight can be attached to the conflict with LP1 Policies STRAT1, STRAT2, STRAT8, SOC1 and SOC5 and LP2 Policies DM2, DM12 and DM19.

54. Turning to paragraph 11d)i. of the Framework, footnote 7 lists the policies it refers to as including those relating to designated heritage assets. As noted above, the proposal would result in harm to a WHS. On this basis, there are policies in the Framework that provide a reason for refusing the proposal.
55. Paragraph 11d)ii. of the Framework states that permission should be granted unless any adverse impacts of doing so 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. The particular policies relevant to this appeal are in paragraphs 66, 110, 115, 129, 135 and 139.
56. The appeal site is not in a suitable sustainable location for new residential development and it would not limit the need to travel, thus conflicting with Framework paragraphs 110, 115 and 129. The appeal site is in agricultural use which is not previously developed or brownfield land suitable for homes. The proposal would not provide affordable housing, contrary to paragraph 66. While I have not found harm to the character and appearance of the area, by virtue of harm to residential amenity, the proposal would not well-designed, function well, add to the overall quality of the area or promote a high standard of amenity for existing and future users. Consequently, there would be conflict with paragraphs 135 and 139. For these reasons, the proposal would not benefit from the support of Framework paragraph 129 in relation to the efficient use of land.
57. Drawing all this together, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a result, the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

58. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations, including the provisions of the Framework, that would outweigh that conflict.
59. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR