



## Appeal Decision

Site visit made on 14 May 2019

**by Graeme Robbie BA(Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 21 June 2019**

**Appeal Ref: APP/R0660/W/18/3206539R**

**Ollerton Nursery, Chelford Road, Ollerton, Cheshire WA16 8RJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Brighthouse (Brighthouse Homes (Mobberley) Ltd) against the decision of Cheshire East Council.
- The application Ref 17/6072M, dated 24 November 2017, was refused by notice dated 10 May 2018.
- The development proposed is redevelopment of former garden centre to 17no. dwellings, public open spaces including associated landscape works together with conversion of existing building to office.
- This decision supersedes that issued on 2 October 2018. That decision on the appeal was quashed by order of the High Court.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council had previously stated that it wished for its committee report to be accepted as its Statement of Case in relation to this appeal. I have no further evidence before me to supersede that position or that would lead me to adopt a different approach. I have determined the appeal accordingly.
3. The proposal was initially described on the planning application form as being for 16 dwellings. However, I have noted that it was subsequently amended during the course of its consideration by the Council and an additional dwelling added to the proposal. Subsequent documents, including the Council's Decision Notice, the appellant's appeal form and Grounds of Appeal and the plans considered by the Council confirm the proposal to be for a scheme of 17 dwellings I have determined the appeal on that basis and have amended the description accordingly.
4. The postcode of the development address set out on the planning application form relates to an area further to the southeast of the appeal site along Chelford Road. I have instead used the postcode given on the Council's Decision Notice and subsequently on the Appeal Form which corresponds more closely with the location of the appeal site.

## Main Issues

5. The site lies within the Green Belt. Accordingly, the main issues are:
- Whether or not the proposal would be inappropriate development in the Green Belt, having regard to any relevant development plan policies and the National Planning Policy Framework;
  - If the proposal is inappropriate development, whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## Reasons

### *Whether or not inappropriate development*

6. Policy PG3 of the Cheshire East Local Plan (CELP) and GC1 of the Macclesfield Borough Local Plan (MBLP) both predate the National Planning Policy Framework (the Framework), albeit by differing extents. Paragraph 145 of the Framework states that new buildings are inappropriate in the Green Belt. A number of exceptions to this are set out in subsequent bullet points. Of particular relevance is the final point (g) of paragraph 145 which states, as an exception, that new buildings will not be inappropriate where they constitute:

#### *Paragraph 145(g)*

*Limited infilling or the partial or complete redevelopment of previously development land, whether redundant or in continuing use (excluding temporary buildings), which would:*

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

7. Neither CELP policy PG3, nor MBLP policy GC1, however fully reflect the provisions of the Framework in respect of development within the Green Belt, particularly with regard to the development of previously developed land. Whilst the stated aims of the Green Belt as set out in these policies are generally consistent with those in the Framework, the policies themselves are not entirely so, largely because they predate the Framework and do not refer to the second strand of Framework paragraph 145 (as set out above). Accordingly, I give these policies limited weight in my consideration of this appeal. Moreover, given that the development plan policies predate the current iteration of the Framework, in the case of the MBLP by some margin, I give the Framework significant weight in this matter.
8. The appeal site is a former horticultural nursery on the western side of Chelford Road, a short distance to the north of the crossroads junction of Seven Sisters Road with Chelford Road. The site contains a number of buildings associated with the former use, including polytunnels, polytunnel frames, glasshouses and a substantial brick-built building. Around these buildings lie extensive areas of increasingly overgrown hardstand, together with landscaped areas of grass,

- trees, shrubs and hedges, the latter of which are largely concentrated towards the front of the site and the northern corner around a building that is, I am advised, used for residential purposes.
9. The status of the appeal site as previously developed land, and the use of the building and land immediately around it in the northern corner of the site for residential purposes, is agreed by the main parties. In this respect, the proposal would satisfy the first element of Framework paragraph 145(g), namely that the proposal would amount to the redevelopment of previously developed land.
  10. However, the two subsequent 'strands' to paragraph 145(g) qualify this exception. Development must not have a greater impact on the openness of the Green Belt than existing development (first strand) or, it must not cause substantial harm to the openness of the Green Belt, where it would re-use previously developed land and contribute to meeting an identified affordable housing need within the local planning authority's area (second strand).
  11. Other than the brick-built building, which it is proposed to convert to offices, the former nursery buildings are essentially lightweight and relatively low-line structures. Of those buildings identified on the 'Existing Site Hardstanding area' drawing<sup>1</sup>, buildings A, B and D-H are either polytunnels or glasshouses in varying states of repair, disrepair or neglect. With the exceptions of buildings B and C, which are broadly centrally located within the site, these buildings are largely found towards the southern and western sides of the appeal site.
  12. The proposed dwellings, with the exception of the four units situated towards the northern corner of the site, would be largely sited within the footprint areas of the existing glasshouses and polytunnels. The dwellings would be relatively low-line structures despite all providing accommodation over two floors. Their overall heights would, the appellant states, be broadly similar to the heights of the existing glasshouses and polytunnels. Taken together with the reworking of ground levels within the site, I have no compelling reason to doubt this statement or to allow me to reach a different conclusion in this respect. The proposal would also open up the central portion of the site with a pleasant 'green' at the heart of the development, encircled by an access road serving the properties within the development.
  13. The appellant has updated previously submitted calculations regarding existing and proposed footprint areas, building volumes and hardstanding areas. In all three areas, the proposed development would represent a substantial reduction<sup>2</sup>. The Council acknowledge as much, as do I. However, the proposed layout and treatment of the northern corner of the site would introduce a significant quantum of development into an area where the openness of the site and its verdant setting provides a visual link to the open countryside beyond.
  14. However, whilst the majority of the proposed units would be sited broadly within the footprint areas of the existing buildings, four of the dwellings, located towards the northern corner of the site, would not. Of these, plot 15 would be closest in its siting to the existing, lawful, residential building in this

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<sup>1</sup> Drwg No: (9-)100 Rev A – Appendix 1 'Further representation for re-determination process' (3 April 2019)

<sup>2</sup> Table 1. Built Development Measures (Amendment to Table 1 of Planning Appeal Statement) as set out in 'Further representation for re-determination process' (3 April 2019)

corner of the site, but it would not replicate it. In addition, plot 13 would also be sited, in part at least, on an existing, albeit largely overgrown, area of hardstand.

15. There is, however, an absence of significant built structures around the lone building in this part of the site, itself relatively discrete and unobtrusive, whilst the verdant nature of the overgrown landscaping here feels a world away from the decaying structures of the former nursery elsewhere within the site. As openness is the absence of buildings, four dwellings in this location would have a significantly greater impact on openness in the northern corner of the site than the existing use in this area, notwithstanding the presence of the existing building.
16. Moreover, and notwithstanding reductions in footprint area, building volume and hardstanding across the site as a whole, the proposal would result in a greater spread of development across the site. The dwellings would broadly follow the perimeter of the site, around the outside of the central, two-pronged access road, and result in the introduction of a row of four buildings towards the northern corner of the site. This would amount to a substantial quantum of development in an area of the site notable for its verdant character and relative absence of buildings. The proposal would, taken as a whole, have a significantly greater impact on openness of the Green Belt than the existing development and would consequently fail the assessment required by the first strand to Framework paragraph 145(g).
17. With regard to the second strand of paragraph 145(g) it is not a matter of dispute between the parties that there has been a persistent and historic shortfall in the provision of affordable housing within the district. Nor, as a consequence, is it disputed that there is also a clearly defined need for such. The proposal would deliver 6 affordable dwellings<sup>3</sup> within the overall total of 17 dwellings and this would, as required by paragraph 145(g), 'contribute to meeting' an identified affordable housing need within the district.
18. However, all of that is contingent upon the development not causing substantial harm to the openness of the Green Belt. Whilst I accept that the proposal would reduce the quantum of floor area and building volume within the site, the proposal would spread development noticeably wider across the site than is currently the case. Although the impact of this would be most keenly felt towards the northern corner of the site, where the single existing residential building would be replaced by four dwellings, it would not be exclusively so. The proposal would extend built development uniformly closer to the site's perimeter, spreading built development out across the site. Thus, for the reasons I have set out here and above, I conclude that the proposal would cause substantial harm to the openness of the Green Belt.
19. However, even if I were to conclude that the proposal would cause less than substantial harm to the openness of the Green Belt, there is no mechanism in place to secure the provision of affordable housing. It is again agreed between the parties that there is no requirement or obligation upon the appellant to provide onsite affordable housing. Rather, the appellant states a commitment to providing on-site provision to 'help provide much needed affordable housing to the area'. It is that commitment, and the support afforded by the second strand of paragraph 145(g), that the appellant's case regarding whether or not

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<sup>3</sup> Described as being '4 social rented and 2 intermediate tenure units'

the proposal is inappropriate development in the Green Belt is principally constructed around. Without a mechanism to secure the provision of affordable housing, and the contribution that that would make to meeting an identified need for such, I cannot be certain that it would be delivered.

20. The proposal would, for the reasons I have set out, be inappropriate development in the Green Belt which is, by definition, harmful thereto. The Framework states that substantial weight be given to any harm to the Green Belt. Whilst I give limited weight to the provisions of CELP policy PG3 and MBLP policy GC1, the proposal would nonetheless be contrary to those policies. I turn now to whether other considerations clearly outweigh the potential harm to the Green Belt by reason of inappropriateness, and any other harm.

#### *Other considerations*

21. The proposal is, for the reasons I have set out above, inappropriate development in the Green Belt. This is, by definition<sup>4</sup>, harmful to the Green Belt. As the Framework requires me to<sup>5</sup>, I give substantial weight to this harm. The Council do not advance an argument that there are any other non-Green Belt harm arising from the proposal. From the evidence before me, I do not disagree.
22. The proposal would enhance the significance and prominence of three trees, protected by Tree Preservation Orders, making them a focal point at the centre of the development. That they would become a focal point of the development within what would appear to be a pleasant, open landscaped area, and without the detritus that currently surrounds them, weighs moderately in support of the proposal.
23. The proposal would also provide a boost, albeit modest, to housing supply within the district. Although there is dispute as to the extent to which the Council are able to demonstrate a deliverable 5-year supply of housing land, a five-year supply is not an upper limit, and a net boost of 16 dwellings to supply would not be in conflict with the Government's stated aim<sup>6</sup> of significantly boosting the supply of homes. This weighs moderately in support of the proposal, albeit tempered by the absence of a mechanism to secure provision of affordable housing, for which there is a recognised need.
24. The brick-built building, which it is proposed to convert to office use, is a pleasant feature of the site. Its sensitive conversion to office use, and the provision of commercial floorspace, also weighs moderately in support of the proposal. So too, in visual terms, would the removal of the redundant and rusting equipment and machinery within the site, the extensive areas of hardstanding and the derelict and decaying glasshouses and polytunnels. Although their presence in the local landscape is offset to a degree by the verdant nature of the landscaping and overgrown vegetation within the site, their removal weighs moderately in support of the proposal.

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<sup>4</sup> National Planning Policy Framework: Paragraph 143

<sup>5</sup> Paragraph 144

<sup>6</sup> Framework: paragraph 59

25. However, whilst these factors weigh in support of the proposal for the reasons, and to the extent, that I have set out above, the harm to the Green Belt by reason of inappropriateness is not clearly outweighed by these considerations. Thus, the very special circumstances required to approve inappropriate development do not exist.

### **Conclusion**

26. For the reasons set out above, and having considered all other material considerations, I conclude that the appeal should be dismissed.

*Graeme Robbie*

INSPECTOR

Richborough Estates