



Appeal Decision

Site visit made on 30 May 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2022

Appeal Ref: APP/A0665/W/22/3290072

Former Mollington Golf Course, Townfield Lane, Mollington, Chester CH1 6NJ

- 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 Rob Haslam of Harworth Group against the decision of Cheshire West and Chester Council.
 - The application Ref 20/03019/FUL, dated 7 August 2020, was refused by notice dated 12 July 2021.
 - The development proposed is demolition of the existing building and structures and the erection of 6no dwellings, creation of new public pedestrian and cycle path, and community car park, together with associated landscaping, ecology mitigation and infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and structures and the erection of 6no dwellings, creation of new public pedestrian and cycle path, and community car park, together with associated landscaping, ecology mitigation and infrastructure at Former Mollington Golf Course, Townfield Lane, Mollington, Chester CH1 6NJ in accordance with the terms of the application, Ref 20/03019/FUL, dated 7 August 2020, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The description of development used above has been taken from the appellant's appeal form and Council's decision notice as this is more precise than that given in the original application form.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt having regard to relevant development plan policies and the National Planning Policy Framework (the Framework);
 - The effect of the proposal on the openness and purposes of the Green Belt;
 - Whether or not the site lies in a suitable location for new residential development, having regard to relevant development plan policies; and

- If the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

4. The appeal site relates to part of the former Mollington Golf Course, which includes the former clubhouse and greenkeepers building, a car park, areas of grassland, fairways and gravel tracks. The site is bound by the former golf course to the north, east and south and by residential properties on Townfield Lane to the west. The site is within the Green Belt.
5. The Framework states that the Government attaches great importance to Green Belts, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. Accordingly, the Framework says that the construction of new buildings in the Green Belt should be regarded as inappropriate with certain exceptions. Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part 1) (2015) (LP1) reflects the provisions of the Framework in relation to development in the Green Belt.
6. Paragraph 149 g) of the Framework allows for the limited infilling or the partial or complete redevelopment of previously developed sites, 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. The glossary to the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (2019) (LP2) excludes land and buildings used for outdoor sport and recreation purposes, including for the playing of golf, from its definition of previously developed land. However, even were I to find that the existing buildings occupy previously developed land, the Framework definition of previously developed land is clear that it should not be assumed that the whole of the curtilage should be developed. The proposed dwellings would not be constructed on the footprint of the existing buildings but would be situated on an undeveloped part of the site. Therefore, having particular regard to the Framework's definition of previously developed land, I conclude that the proposed dwellings would not constitute the partial or complete redevelopment of a previously developed site. None of the other exceptions listed under paragraph 149 of the Framework apply to the proposal.
7. The proposed car park and creation of footpaths/cycle paths would be engineering operations which would not be inappropriate development in the Green Belt in accordance with paragraph 150 b) of the Framework. However, the proposed dwellings would constitute inappropriate development within the Green Belt. As such, the proposal would be contrary to Policy STRAT 9 of the LP1 and the Framework in so far as they relate to development in the Green Belt.

Openness and purposes of Green Belt

8. The Framework states that the essential characteristics of Green Belts are their openness and permanence. There is no definition of 'openness' in the

Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development.

9. Planning permission has been granted for the change of use of the clubhouse to form one dwelling with associated works¹. However, construction of the appeal proposal would remove the potential for that extant planning permission to be implemented. The proposed dwellings would represent a reduction in both footprint and volume, though not in floorspace, compared to the existing buildings on the site. However, the existing clubhouse is a relatively low-lying structure, whilst the greenkeepers building is tucked away in a corner of the site to the rear of Oak Grange Care Home, where it is inconspicuous due to surrounding landform and vegetation. The proposed dwellings would be large, two storey buildings which would be closer to and more visible from Townfield Lane. Consequently, the proposed development would be more prominent than the existing buildings on the site. Moreover, the provision of a new access drive, car parking, boundary treatments and domestic paraphernalia would increase the prominence of the development. Therefore, I consider that the introduction of the new dwellings would have more of an impact on the openness of the Green Belt in spatial and visual terms than the existing buildings to be demolished.
10. The proposed dwellings would introduce new built form in a location that is currently open and would represent an encroachment into this part of the countryside. That would be contrary to the third purpose of including land within the Green Belt as set out at paragraph 138 of the Framework.
11. For the above reasons, I conclude that the proposal would result in moderate harm to the openness of the Green Belt. This harm would be in addition to the harm arising from the inappropriate nature of the proposal and would mean that the proposal would conflict with Framework paragraph 149 g) even if the appeal site was previously developed land based on the Framework's definition. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt. The proposal would conflict with the aims of the Framework and would be contrary to Policy STRAT 9 of the LP1 which seek, amongst other things, to prevent harm to the Green Belt.

Suitable location

12. Policies STRAT 1, STRAT 2 and STRAT 8 of the LP1 seek to ensure new development is located so it is accessible to local services and facilities, amongst other things. To achieve this, Policy STRAT 2 seeks to direct new housing to identified settlements whilst Policy STRAT 8 states that within the rural area, the Council will support development that serves local needs in the most accessible and sustainable locations.
13. The appeal site is within Mollington which is not listed as a key service centre in Policy STRAT 2 and is therefore within the countryside. Policy STRAT 9 of the LP1 sets out the types of development that will be permitted within the countryside, but the proposal would not fall within any of the categories of acceptable development in the countryside listed.
14. Policy DM 1 of the LP2 states that proposals for residential development in the countryside will be determined in line with the criteria set out in the LP2 Policy

¹ Council ref 21/01831/FUL

DM 19, which says that residential development in the countryside will only be supported in certain circumstances. One such circumstance would be the redevelopment of previously developed land identified on the Council's Brownfield Land Register. However, as set out above, the proposal cannot be considered previously developed land having regard to definition provided in the LP2. Moreover, there is no indication that the site is listed on the Council's Brownfield Land Register. The proposal would not fall within any of the other categories listed in LP2 Policy DM 19.

15. Other than a primary school and a public house, there are few services and facilities within the village. Although there are bus stops along Townfield Lane and Parkgate Road, the nearest railway station at Bache is a significant distance away from the site. Chester is the nearest defined settlement containing a full range of services and facilities. However, the edge of Chester is around 2km away and the services and facilities available there would be beyond short walking distance. Future occupiers of the development would be largely dependent on private motor vehicles to conveniently access day-to-day services.
16. For the above reasons, I conclude that the proposed development would not be a suitable location for housing, having regard to relevant local planning policies. The development would conflict with Policies STRAT 1, STRAT 2, STRAT 8 and STRAT 9 of the LP1, and Policies DM 1 and DM 19 of the LP2, which seek, amongst other things, to restrict new housing development in the countryside to that meeting an identified local need and to protect the intrinsic character and beauty of the countryside.

Other considerations

Public Access

17. Whilst paths through the former golf course may be regularly used, the proposal would formalise public access with the provision of pedestrian and cycle links, including from Townfield Lane (using the existing driveway), and a small car park would be created for visitors to the wider site. The new cycle way would be constructed providing enhanced connections between the Countess Country Park, the Countess of Chester Hospital and Mollington. It would also provide improved access to the National Cycle Network which connects to Chester City Centre. Although it is unclear whether the new cycle way would achieve a suitable gradient for all potential users, it would be of benefit to most users. Details of the public access works would be secured through the Section 106 Agreement.
18. The proposal would not fit within any of the open space typologies used to determine the availability of public open space. The Council argues that this part of the borough already has good availability to open space. Nevertheless, the proposals would provide a significant amount of new public open space which would positively contribute to the area.
19. The golf course already provides a recreational use. However, other than the existing public rights of way, the site is closed to the public. The proposals would secure enhanced access to the site to the wider public. This element of the scheme would accord with the aims of paragraph 145 of the Framework, which states that once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as

looking for opportunities to provide access; and to provide opportunities for outdoor sport and recreation. This enhanced accessibility carries substantial weight in favour of the proposed development.

Ecological enhancement and climate change

20. Although some areas of grassland and scrub would be lost as a result of the proposals, the appeal scheme proposes significant new woodland planting along the southern and western boundaries of the site, species rich grassland to the south of the pond, to the eastern part of the site and on the footprints of the existing buildings to be demolished, together with scrapes and enhancements of an existing pond which will provide increased habitat connectivity between the site and the wider landscape. A total of 7.5ha of tree planting is proposed, consisting of 4.8ha of woodland planting and 2.7ha of scrub planting. The Ecology Report indicates that this planting could offer in the region of 20,000 individual trees/scrub specimens on the site and within the wider golf course.
21. In turn this would provide both on and off site habitat creation. While the existing site already contains valuable habitat, the appeal scheme would provide a significant biodiversity net gain in the extent and quality of habitats present on the site. The enhancement proposals would provide species-specific enhancements to Great Crested Newts, reptiles and small mammals/nesting birds whilst maintaining the value of the wider golf course to species which rely on open expanses of rank grassland interspersed with scrub.
22. The planting scheme would also have carbon reduction benefits compared to the existing situation, which would assist the Council's aim to achieve carbon neutrality within the borough by 2045. While the existing trees on the site make a contribution in this respect, the significant additional tree planting would increase carbon capture. These environmental benefits weigh significantly in favour of the proposal.

Anti-social behaviour

23. The evidence before me indicates that the site has experienced high levels of anti-social behaviour, including break-ins to the existing club house. The formalisation of access to the site would increase natural surveillance and the demolition of the existing vacant buildings would reduce incidences of anti-social behaviour. However, the implementation of robust security measures on the existing site could also reduce levels of anti-social behaviour. I give this matter limited weight in favour of the appeal scheme.
24. The proposed development of six dwellings would make a small contribution to the borough's housing stock, albeit there is no dispute between the main parties that the Council can currently demonstrate a five year housing land supply. The creation of employment opportunities during the construction phase of the development and spending in the local area by future occupants also weigh in favour of the development proposal. I give these matters limited weight.

Planning obligation

25. The completed Section 106 Agreement would secure the scheme of public access to the site, including a management plan for the maintenance of the

footpaths, cycle way and visitor car park. It would also secure the planting and ecological enhancement works and their management.

26. I am satisfied that the planning obligations contained within the Section 106 Agreement are necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development. They meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework. They are therefore material considerations in this case.

Other Matters

27. Objections have been raised regarding a range of other matters, including impacts on landscape character, highway safety, increased pressure on local services and facilities, harm to neighbouring occupiers' living conditions, contamination and pollution, biodiversity and protected species, flood risk, light pollution and that a precedent would be set. These matters do not form part of the Council's reason for refusal and I have no reason to disagree with the Council's assessment on these matters based on the evidence before me and my own observations on site. There would be a significant separation distance between the proposed dwellings and neighbouring occupiers which would be sufficient to ensure no significant adverse effects on the living conditions of the neighbours. The Council has not identified harm in relation to the protected species on the site subject to the implementation of mitigation strategies, which can be secured by conditions. I have no evidence before me to reach a different conclusion in this regard. The very specific circumstances of this site and the other considerations mean that no precedent would be set by approval of the development. The absence of harm in respect of these matters is neutral and they are not benefits of the scheme.
28. Other than the existing public rights of way, there is no substantive evidence before me to indicate that the appeal site forms part of public or common land.

Planning Balance

29. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
30. The proposal would be inappropriate development in the Green Belt and would result in moderate harm to its openness. These harms carry substantial weight. The development would conflict with the requirements of the development plan in relation to sustainable locations for development which also weighs against the proposal. However, I find that the other considerations in this case, specifically the enhanced public access to the site and ecological enhancements, would result in significant benefits which would clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Conditions

31. I have had regard to the conditions suggested by the Council in their statement. In imposing conditions, I have had regard to the relevant tests in the Framework, Planning Practice Guidance and of statute. In that context I

have modified the wording of some of the conditions proposed by the Council without altering their fundamental aims.

32. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty.
33. In the interests of preserving and enhancing biodiversity, conditions are necessary in relation to the management of invasive species, mitigation strategies for protected species, and external lighting.
34. Conditions relating to contaminated land and remediation are necessary in order to identify and minimise any risks associated with contamination from past uses. These need to be 'pre-commencement' conditions due to the risks inherent in developing the site.
35. Details of a drainage system are required by a pre-commencement condition to secure the satisfactory drainage of the site. A condition to secure the implementation of measures to reduce and manage flood risk is also required.
36. In order to preserve the character and appearance of the area, conditions are required in relation to details of existing and finished site levels, samples or details of materials, hard landscaping and boundary treatments.
37. In the interests of highway safety, I have included conditions to require implementation of the necessary works within the public highway, provision of access, car parking and turning areas and details of cycle parking and surfacing for the cycle way / footpaths. Electric vehicle charging points are required in the interest of reducing carbon emissions.
38. It is necessary to construct the dwellings to reduce water consumption and carbon dioxide emissions in the interest of mitigating climate change.
39. In order to reduce the risk of crime and anti-social behaviour, a condition requiring details of security measures is necessary.

Conclusion

40. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed subject to conditions.

M Ollerenshaw

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 approved plans: 491-PL-01 Rev A, 491-PL-02 Rev A, 491-PL-03, 491-PL-04 Rev A, 491-PL-05, 491-PL-06, 491-PL-07, VN91395-D101 Rev A VN91395-D103 Rev B, and 769A-10B.

Before development commences

- 3) No development shall take place until a scheme for the management of invasive species has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the commencement of the development or otherwise in accordance with a timetable to be agreed prior to the commencement of the development.
- 4) The development hereby approved shall be carried out in accordance with the outline mitigation strategy for bats set out in the report entitled Ecological Assessment Report ref 12301_R04a_KM_HM dated 6 August 2020 by Tyler Grange. Details of the bat boxes referred to therein shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved bat boxes shall be installed prior to the first occupation of the development and retained permanently thereafter.
- 5) No development shall take place until a method statement which outlines measures to protect reptiles has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out wholly in accordance with the approved scheme.
- 6) No development shall take place until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include: (i) a survey of the extent, scale and nature of contamination; and (ii) an assessment of the potential risks to human health, adjoining land, groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.
- 7) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have 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 option(s), 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 person shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied.

- 8) No development shall take place until details of a sustainable drainage system to serve the site, including a method statement and timetable of implementation and details of arrangements to secure the funding and maintenance of the drainage scheme for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The approved scheme shall be implemented in accordance with the approved details and timetable and the approved drainage system shall be managed and maintained in accordance with the approved scheme permanently thereafter.
- 9) No development shall take place until details of existing and finished site levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.

Before work above slab level

- 10) No development shall take place above ground floor slab level until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard landscaping for the dwellings, the shared courtyard, the public car park and all vehicular and pedestrian access roads. The hard landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

Before occupation or other stage conditions

- 11) Prior to the occupation of the development hereby approved a scheme of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed in full prior to the occupation of the development or otherwise in accordance with a timetable submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The lighting shall then be retained in full working order permanently thereafter. No external lighting other than in accordance with the approved scheme shall be installed on the site.
- 12) Prior to the occupation of the development hereby approved a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented in accordance with the approved details prior to the first occupation of the development and shall be maintained thereafter.
- 13) Prior to the occupation of the development hereby approved details of the surfacing for the cycleway/public right of way shown on drawing 769A-10B shall be submitted to and approved in writing by the Local Planning Authority. The cycleway/public right of way shall be surfaced in accordance with the approved details and made available for use prior to the first occupation of the development or otherwise in accordance with a timetable to be agreed in writing with the Local Planning Authority prior to the occupation of the development.
- 14) Prior to the occupation of the development hereby approved a scheme of cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The dwellings hereby approved shall not be occupied until the cycle

- parking approved for that dwelling has been made available for use. The cycle parking shall be retained in working order permanently thereafter.
- 15) Prior to occupation of the first unit, works within the public highway shown on drawings VN91395-D101 Rev A and VN91395-D103 Rev B shall be carried out in full.
 - 16) The development hereby permitted shall not be occupied until the access, car parking and turning areas which serve that access have been laid out and are available for use in accordance with the approved drawings. The access, car parking and turning areas shall thereafter be kept available for their stated purpose.
 - 17) Prior to the first occupation of the development details of electric charging points for parking spaces shall be submitted to and approved by the Local Planning Authority. The electric charging points shall be installed as approved prior to occupation of the development and shall be maintained and retained as such thereafter.
 - 18) Prior to the occupation of the development hereby approved details of security measures to be installed to enhance the safety and security of the site and the wider former golf course shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to the occupation of the development or otherwise in accordance with a timetable submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development and retained in working order permanently thereafter.
 - 19) Before their use in the development hereby approved, samples or details of materials to be used in the construction of the external surfaces shall have been submitted to and approved by the Local Planning Authority in writing. The development hereby permitted shall be undertaken in accordance with the agreed samples or details, and retained as such thereafter.
 - 20) The development hereby approved shall be carried out in accordance with the outline mitigation strategy for Great Crested Newts set out in the report entitled Ecological Assessment Report ref 12301_R04a_KM_HM dated 6 August 2020 by Tyler Grange.
 - 21) The development hereby approved shall be carried out in accordance with the Reasonable Avoidance Measures for badgers set out in the report entitled Ecological Assessment Report ref 12301_R04a_KM_HM dated 6 August 2020 by Tyler Grange.
 - 22) Any contamination that is found during the course of construction of the approved development 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 and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 23) The development hereby approved shall be carried out in accordance with the measures set out in the document entitled Flood Risk and Surface Water Drainage Assessment ref 3244-FRA dated August 2020 by Integra Consulting.
- 24) The dwellings hereby approved shall be constructed/plumbed in such a way to meet the National Housing Standard for water consumption of 110 litres per person per day and shall be retained as such thereafter.
- 25) The development hereby approved shall be designed and constructed to achieve a reduction in carbon dioxide emissions of at least 19% against the Target Emission Rate of the 2013 Building Regulations (Part L).

END OF SCHEDULE