
Appeal Decisions

Site visit made on 20 September 2016

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 07 October 2016

Appeal A: APP/R0660/W/16/3153090

Wood Platt Cottage, Chelford Road, Marthall, Cheshire, WA16 8TB

- 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 Ms Kellie Mercer (Tom Bagley Groundworks Ltd/KCA Limited) against the decision of Cheshire East Council.
 - The application Ref 15/5424M, dated 30 November 2015, was refused by notice dated 13 June 2016.
 - The development proposed is "Retrospective Application for a Change of Use from Agriculture to a mixed use as an Aggregate Recycling Station, Storage Operation and Agricultural Contracting Business."
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Appeal B: APP/R0660/W/16/3153995

Wood Platt Cottage, Chelford Road, Marthall, WA16 8TB

- 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 Tom Bagley against the decision of Cheshire East Council.
 - The application Ref 16/1548M, dated 30 March 2016, was refused by notice dated 13 June 2016.
 - The development proposed is "Retrospective Application for the erection of a new agricultural building."
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Decision

1. **Appeal A** is dismissed and **Appeal B** is dismissed.

Procedural Matter

2. As set out above there are two appeals on the appeal site 3153090 (Appeal A) seeks retrospective permission for a change of use of the site from agricultural to a mixed use as described in the banner heading above. Whereas 3153995 (Appeal B) seeks retrospective permission for the erection of a building which has been partly constructed. Whilst I have considered each appeal scheme on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
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Main Issues

3. As the appeal site is within the Green Belt, I consider the main issues in both appeals to be:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework (Framework);
 - The effect on the openness and visual amenity of the Green Belt; and
 - If the proposal would be inappropriate development 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 it.

Reasons

Whether inappropriate development

4. The appeal site is set back from Chelford Road behind open fields. The main area of the site is accessed via a track that connects directly with the highway. The site has evolved over the years from an agricultural use to encompass an aggregate recycling station, storage operation and agricultural contracting business. I understand that there are two businesses operating from the site, Tom Bagley Groundworks Ltd and KCA Limited and that they have been doing so for approximately 6 years. There are several outbuildings on the site in various uses, including in connection with the businesses. There is a building which has been partly erected which is the subject of Appeal B. The original farmhouse is still used for residential purposes.
5. Policy GC1 of the Macclesfield Borough Local Plan (Adopted 2004) (LP) takes a restrictive approach to new development within the Green Belt unless it is for specific defined purposes. Of those listed none are relevant to the change of use sought by Appeal A. However, one of the exceptions listed relates to new buildings for the purposes of agriculture.
6. Paragraphs 89 and 90 of the Framework describe the types of development which are not inappropriate development in the Green Belt for the purposes of National policy. Of those listed, none are relevant to the change of use of land sought by Appeal A. Paragraph 89 lists exceptions which include buildings for agriculture; and the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Paragraph 90 also lists other forms of development not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include engineering operations; and the re-use of buildings provided that the buildings are of permanent and substantial construction.
7. Policy GC1 of the LP in seeking to restrict new development in the Green Belt except in certain specified circumstances is generally consistent with the Framework, when read as a whole. I therefore attach weight to policy GC1. However, as there are additional exceptions listed within the Framework that are relevant to this appeal, I shall also have regard to the Framework in accordance with paragraph 215 of that document.

8. There are several outbuildings on the appeal site that have been re-used in connection with the business use. These include an office, brew room and store. Based on the information before me, the buildings appear to be of permanent and substantial construction. As they are existing built structures and little external alterations appear to have taken place to facilitate their re-use, I am of the view that there is no impact on the openness of the Green Belt nor does the use conflict with one of the purposes of including land within it. This complies with the specific paragraph 90 exception in the Framework that I have described above. As such, this part of the appeal scheme A would be not inappropriate development in the Green Belt. This reflects the Council's assessment.
9. There is no exception described in either local or national policy which describes the change of use of land that has taken place as not inappropriate development in the Green Belt. As such, this element of appeal scheme A is by definition inappropriate development.
10. Some physical elements of the change of use of land could be described as engineering operations, such as the laying out of several concrete bays where aggregates and other materials are stored. Along with the concrete bays, there are large mounds of aggregates approximately 4m high and other materials stored at the rear of the site along with piles of materials, gas cylinders and pieces of machinery scattered across it. This has resulted in the site having a busy, industrial and untidy appearance that has had a significant visual impact, can be seen from the road and is at odds with the surrounding rural landscape which is defined by flat, open fields and woodland.
11. The development that has taken place for the purposes of appeal scheme A is therefore harmful to the openness of the Green Belt and does conflict with one of the purposes of including land within it, specifically to safeguard the countryside from encroachment. Although the appellant has suggested that some form of additional landscaping could screen views of the site, openness in Green Belt terms is only partly concerned with visibility and therefore screening would not mitigate the fact that development has taken place on the site nor its urbanising effect upon it. The development would therefore not meet the Framework's paragraph 90 exception relating to engineering operations.
12. There is some dispute between the main parties as to the purpose of the building that has been partially constructed and is the subject of appeal scheme B. The appellant has stated that the building would be used for the storage of agricultural machinery/tractors associated with the agricultural contracting business that operates from the site. In support of this, several invoices were submitted with the appeal, along with correspondence from the rural payments agency confirming a County Parish Holding number and a Single Business Identifier has been allocated to the appellant's business; and a letter confirming that the appellant has registered his details with Animal Health.
13. Whilst I note the receipts for land rental in the wider Cheshire area, there is no information on the receipts themselves to say what the land is used for nor any specific evidence as to how that use is connected with the appeal site. One of the invoices is also undated. The invoices relating to tractors and machinery show that servicing and maintenance has taken place but this is something that would need to be done in any event even if the appellant were able to store

vehicles within the appeal scheme. An invoice for a provisions store was submitted and it is not clear why repairs and maintenance cannot be carried out on the tractors at this location if that is where they are currently stored. Furthermore, there is little specific evidence before me to demonstrate the exact nature of the machinery that the appellant owns, how it is used and how that directly relates to the business operating at the farm. Whilst the appellant has indicated that it would be cheaper to store the machinery on the appeal site, there is little information before me to show why any current storage arrangements that may be in place are unviable or what the exact cost saving would be offset against the cost of constructing the building (given that there is only a steel frame in situ presently). Whilst I note the correspondence from the Rural Payments Agency and Animal Health, neither letters confirm details as to the nature of the agricultural business and the appeal site's role in it nor the exact nature or number of animals that the appellant may keep.

14. I observed during the site visit that there was a wooden outbuilding close to the farm house with a small fenced area of land attached. There is also a pig sty to the rear of the farm house which is divided into a few pens. At the time of the site visit there were a small number of pigs and numerous piglets on the piece of land attached to the wooden outbuilding. There was also a trailer within the steel frame of the appeal building and also one large agricultural implement. Other than that, I was not able to observe any other signs of an active agricultural use taking place within the site and that which I did see was small scale.
15. For these reasons, on the basis of the evidence before me, I am not satisfied that the building that has been partially constructed would be used for agricultural purposes. Whilst I acknowledge that the use of the building for agriculture only could be controlled via a planning condition, the building once constructed could be re-used for an alternative use as this is a specific exception described in National policy to inappropriate development in the Green Belt. A planning condition would not therefore overcome this. As such, appeal scheme B would not meet the specific exceptions listed in policy GC1 of the LP and paragraph 89 of the Framework.
16. The appellant has indicated that the building is replacing a previous building that was in a state of disrepair. The Framework's paragraph 89 exception relating to a replacement building specifies the new building should be in the same use and not materially larger than the one it replaces. Whilst plans have been submitted showing the previous building, the fact is that the structure has since been removed. Furthermore, the plans do not show specific measurements but the previous building appears to me more modest in size compared with the building that has been partially erected. Whilst the building may be on a similar footprint to the previous structure, the steel frame shows that it would be the tallest built structure on the site, far higher than the existing outbuildings. It is also visible from public viewpoints along the road. Therefore, based on the information before me, the building is materially larger than the one it is intended to replace. Appeal scheme B would therefore not meet with this specific paragraph 89 exception in this regard.
17. Accordingly, I have found that the re-use of the existing outbuildings for the purposes of the business use in connection with Appeal A would be not inappropriate development in the Green Belt. On the other hand, for the reasons given above, I conclude that the change of use of land that has

occurred and the erection of the building which is the subject of Appeal B would be inappropriate development as described in policy GC1 of the LP and paragraphs 89 and 90 of the Framework.

Other considerations

18. I acknowledge that the business has been operating from the site for around 6 years and this demonstrates the longevity and success of the business. Whilst the appellant states that no complaints have been received about the business, the local Parish Council disputes this. In any event, the business employs 9 staff from the local area and makes a positive contribution to the rural economy. It is also an example of farm diversification, the principle of which is generally supported by planning policies. These are economic benefits that weigh in favour of both appeal schemes. I also note that the appellant has stated that should this appeal not be successful, this would result in the loss of the business as they could not afford to move. I have taken account of this consideration in my determination of this appeal.
19. The appellant has stated that the business operating at the appeal site is moving inert waste such as aggregate and soils up the waste hierarchy thereby contributing to the achievement of National waste policy aims. I attach limited weight in favour of this consideration. Any matters relating to permits for the operational activities at the appeal site are not before me in the context of a s.78 planning appeal.
20. The appellant states that customers do not have to travel far to use the appeal site and that the source of materials that are recycled on it are close to the business, specific mention is made of Dingle Bank Quarry. Whilst I appreciate that the appellant and customers may value the local connection, customers will still need to travel to a certain extent to reach the appeal site as it is situated in a countryside location. There is no specific evidence before me to indicate that customers would cease to use the business should it be in an alternative, non-Green Belt location. I therefore attach limited weight to the appellant's point that the location of the business reduces emissions or that should it be situated in an alternative location that customers would not use the business. As no alternative location has been identified, whether or not a site closer to a built up area would impact negatively on residential amenity is speculative.
21. Based on the information before me, the appeal scheme would be acceptable in relation to noise, dust and access. The Council did not object to the schemes in this regard, subject to conditions. These are however neutral considerations whereby a lack of harm does not weigh in favour of the appeal proposal. I note the Council's comments regarding the proximity of woodland and a water course to the site. These were identified in both the Officer's report and their appeal statement. Whilst this issue has not been a decisive consideration in my determination of this appeal, if scheme A had been acceptable in other regards this is a matter on which I would have requested further information from the main parties.
22. There are other businesses situated along Chelford Road close to the appeal site. However, I am not familiar with the planning history relevant to these other businesses and therefore am not clear in what way they may be sufficiently similar to the appeal schemes before me.

Conclusion

23. Whilst I concluded that the re-use of the existing outbuildings for the purposes of Appeal A would be not inappropriate development; I also concluded that the other elements of Appeal scheme A and also Appeal B would be inappropriate development in the Green Belt. This is because there is no specific exception in either local or National policy relating to the change of use in the land that has taken place; although some elements of the development could be considered to be engineering operations, they harmfully impact on openness and conflict with one of the purposes of including land within the Green Belt. I have also concluded that the building which is the subject of Appeal B would be inappropriate development as I am not satisfied that it would be used for the purposes of agricultural and it would be materially larger than the building it is intended to replace. Both appeal schemes would therefore be inappropriate development in the Green Belt as described in policy GC1 of the LP and paragraphs 89 and 90 of the Framework. The Framework confirms that substantial weight should be given to any harm to the Green Belt (paragraph 88).
24. On the other hand, I give moderate weight in favour to the economic benefits associated with the business and that it employs 9 people. I also attach moderate weight in favour of the recycling operations and that the business seeks to move waste up the waste hierarchy. I attach limited weight in favour of the location of the business in terms of its proximity to existing customers and businesses where materials are sourced.
25. I have also acknowledged several neutral considerations that do not weigh in favour of the appeal schemes.
26. Accordingly, I conclude that these other considerations do not clearly outweigh the totality of harm I have identified. Therefore very special circumstances necessary to justify the development do not exist and the proposal would conflict overall with policy GC1 of the LP paragraphs 80, 89 and 90 of the Framework.
27. For the reasons given above, I conclude that the both Appeal A and Appeal B should be dismissed.

V Lucas-Gosnold

INSPECTOR