
Appeal Decision

Site visit made on 8 July 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/A0665/W/19/3227616

Roddy Lane Farm, Roddy Lane, Kingsley, Frodsham WA6 8HQ

- 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 C Pemberton against the decision of Cheshire West & Chester Council.
 - The application Ref 18/03148/FUL, dated 9 August 2018, was refused by notice dated 19 December 2018.
 - The development proposed is described as the material change of use of land to allow the siting of a single unit caravan with associated access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development proposal was described as above on the planning application form, and the Council's decision notice also refers to the installation of a septic tank. Merely siting a caravan does not necessarily infer a change of use of the land, presently in an agricultural use, however. The details of the application make it clear that the proposed caravan is to be used for residential tourist accommodation. Therefore I have considered the appeal on the basis that the material change of use is to a residential use, albeit one that is limited to use as accommodation by holidaymakers.

Main Issues

3. The appeal site lies in the open countryside within an area of designated Green Belt. The proposals include the installation of a septic tank to serve the proposed caravan, which would amount to an engineering operation, but are primarily concerned with the making of a material change of use of the land. Accordingly the main issues arising in the appeal are:
 - The effect of the proposal on the openness of the Green Belt and its compatibility with the purposes of including the land within the Green Belt; and, consequently:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework ('the Framework') and any relevant development plan policies; and
 - whether, if it is inappropriate development in the Green Belt, any harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations. If so would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Effect on openness and purposes of the Green Belt

4. Policy STRAT9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies document, adopted in January 2015, provides that restrictions will apply to development within the Green Belt in line with the Framework. Paragraph 146 of the Framework provides that the making of a material change of use of land in the Green Belt is not necessarily inappropriate development, so long as the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The same considerations apply to engineering operations. The openness and permanence of Green Belts are their essential characteristics, and one of the purposes of Green Belts is to assist in safeguarding the countryside from encroachment.
5. The proposed caravan would be sited on an existing agricultural field to the north of farm buildings in the complex at Roddy Lane Farm. Beyond the fields of the farm lie woodlands to the west and a number of scattered dwellings, along Roddy Lane and on Mill Lane to the north, in the mostly flat landscape. The caravan would be sited against an existing backdrop of the farm buildings and a current mound of plastic-wrapped hay bales. It would not be visible from Roddy Lane, depending on the continuing presence of those hay bales. Nevertheless it would be visible across the fields from Mill Lane, and would introduce a limited residential use onto what is presently an agricultural field, visibly manifested by the presence of the caravan, and this by its presence would fail to preserve the openness of the Green Belt in this location. Although limited in nature, the proposed residential use is not consistent with the purpose of safeguarding the Green Belt from encroachment, and therefore I find that there would be a loss of openness and conflict with Green Belt purposes.
6. The septic tank would be buried and not visible. There would be some spatial loss of openness but of such limited scale that overall openness would be preserved. Nevertheless it is contingent on the change of use, made necessary by the residential element of the proposal, and in that context would not be consistent with Green Belt purposes.
7. Therefore on this issue I conclude that there would be a loss of openness and conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment.

Whether inappropriate development

8. It follows from the above that the proposal would amount to inappropriate development in the Green Belt. By definition this is harmful, and I give substantial weight to this harm by reason of inappropriateness.

Whether other considerations outweigh the harm by reason of inappropriateness and any other harm

9. The appellant prays in aid two principal matters. The first is the existence of a potential 'fall-back' position made possible under permitted development rights, to allow the use of the site by a 'recreational organisation' which would involve the siting of up to 5 touring caravans. The second relates to the

financial position of the farming enterprise and the need for diversification to provide additional income.

10. As to the first matter, the appellant's case is that the potential for up to 5 touring caravans to be sited on the land, under the Part 5 Class C exemption of the Town and Country Planning (General Permitted Development) (England) Order 2015, should be considered when assessing the effect of the appeal proposal on the openness of the Green Belt. At the present time, however, no such caravans exist on the land and no certificate has been issued. Therefore the prospect of such caravans do not affect the present openness of the Green Belt, and accordingly I address this issue as a separate consideration that might outweigh my findings on the harm caused by the loss of openness.
11. In the event, however, I do not find that this prospective 'fall-back' position attracts more than limited weight, for the following reasons. First, although it is contended in the appeal statement that the development of the site as a certificated location "will happen" if the appeal fails, at present the only evidence of this intention is an acknowledgement of an enquiry having been made to a relevant recreational organisation. Secondly, I have no evidence as to the existing supply of or demand for certificated locations for touring caravans in the vicinity of the site. Thirdly, although the appellant suggests that the basic requirements of the recreational organisation (access, water supply, bins &c.) are capable of being satisfied without any requirement for planning permission, I have no evidence that this is the case, or that permission would be granted if it were required. Fourthly, even if that were the case, the absence of other common elements such as hardstandings, hook-ups or a shower block has not been addressed as a factor potentially affecting the demand for use of the site by touring caravans. In the light of such uncertainties I am unable to conclude that the use of the site by up to 5 touring caravans all year round, as an alternative to the appeal proposals, is at all probable. Accordingly, and in the absence of specific details, I am unable to conclude that the use of the site as a certificated location would result in greater harm to the openness of the Green Belt than the appeal proposal.
12. As to the second issue, the appellant has provided an unaudited Profit & Loss Account for the financial year ending on 31 March 2018 which shows a small net profit. No forecasts have however been provided for the projected income from the proposed development. It is said by the appellant that it is "hoped" that the income stream from the proposed development would be sufficient to enable the farm to carry on, but in the light of such uncertain prospects I am unable to give any significant weight to the prospect of the development proposals enabling the continuation of the farm.
13. Neither of these matters, whether separately or cumulatively, amount to circumstances of sufficient weight to overcome the substantial harm to the Green Belt that would result from the proposed development, which I have found to be inappropriate development in the Green Belt as a result of the loss to openness and the conflict with Green Belt purposes that would occur. Accordingly, very special circumstances to justify a grant of planning permission do not exist.

Conclusions

14. In the light of these findings I cannot conclude that there are sufficient considerations to outweigh my findings on the harm to the Green Belt that

would be caused by the development proposed. No very special circumstances exist to justify the development, and therefore the appeal is dismissed.

Laura Renaudon

INSPECTOR