
Appeal Decision

Site visit made on 2 July 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 29th August 2019

Appeal Ref: APP/R0660/W/19/3223525

Land adjoining Boundary Lane, Boundary Lane, Over Peover, Knutsford WA16 8UJ

- 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 T Hopkinson against the decision of Cheshire East Council.
 - The application Ref 18/4687M, dated 18 September 2018, was refused by notice dated 18 December 2018.
 - The development proposed is an agricultural access track.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted revised plans to the appeal which would reduce the width and length of the proposed track and include a central grass strip. These plans were not considered by the Council and they are not the plans upon which interested people's views were sought.
3. The Procedural Guide – Planning Appeals – England advises that the appeal process should not be used to evolve schemes, and that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application. In this case, the appellant made a fresh planning application (ref 19/1304M) based on the revised plans. However, the Council declined to determine the application on the grounds that the proposal was substantially the same as the scheme the subject of this appeal and for which no appeal decision had been issued at that time.
4. My attention has been drawn to an appeal¹ relating to an access track elsewhere in the District where the Inspector accepted amended plans. In doing so, she was satisfied that the interests of the Council and third parties would not be prejudiced by taking the revised proposal into account. However, in this case, I cannot be certain that interested parties, including objectors, would not be prejudiced if I was to accept the amended scheme. I have therefore determined the appeal on the basis of the plans listed on the Council's decision notice.

¹ APP/R0660/W/15/3003735

Main Issues

5. The main issues are:

- i) 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;
- ii) The effect of the proposal on the openness of the Green Belt and the countryside; and
- iii) If the proposal is inappropriate development, whether the harm by reason of inappropriateness or 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 the proposal would be inappropriate development in the Green Belt

- 6. The appeal site is part of a long and narrow agricultural field adjacent to Boundary Lane in the Green Belt. Field boundaries are formed by fences and hedgerows with scattered trees. There is a 2 storey brick agricultural building part way down the field and set at an oblique angle to the adjacent field boundary. The track is proposed to provide access from Boundary Lane to the building and the field beyond.
- 7. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 directs local planning authorities to give substantial weight to any harm to the Green Belt.
- 8. Policy PG3 of Cheshire East Local Plan Strategy 2010–2030 Adopted July 2017 (the Local Plan) sets out the Council's approach to the protection of the Green Belt, including that planning permission will not be granted for inappropriate development, except in very special circumstances, in accordance with national policy. In this respect, Paragraph 4.ii of Policy PG3 and Paragraph 146 of the Framework state that certain forms of development, including 146 b) engineering operations, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and has both a spatial and a visual aspect.
- 9. The track would be over 60m in length and slightly more than 4m wide, and it would be finished in crushed gritstone across its whole width. By virtue of the significant permanent footprint of development in a green field location, there would be a spatial impact on openness.
- 10. Although proposed at the edge of the field, the track would be visible from locations in and around the area including along Boundary Lane. It would be made more conspicuous in this location as a result of its relationship with the agricultural building, which has a rather domestic appearance and is prominent within the field. Consequently, there would be a significant visual impact on openness in this locality. The spatial and visual loss of openness would be

relatively small in the context of the Green Belt as a whole. Nevertheless, the proposed track would not preserve the openness of the Green Belt.

11. I am aware that in the appeal referred to earlier the Inspector found that the track preserved the openness of the Green Belt. From reading that decision, it is apparent that there are significant differences between that scheme and the appeal scheme before me. Moreover, subsequent case law² has established that openness of the Green Belt has both a spatial and a visual aspect. The Court recognised that there can be an impact on the openness of the Green Belt even in the absence of visual intrusion. It also recognised that the visual dimension of the Green Belt is an important part of the point of designating land as Green Belt. This is clearly relevant to the consideration of proposals under paragraph 146 of the Framework which do not involve buildings but where significant visual impacts can arise including through permanent change to the character of the landscape. Therefore, and notwithstanding the apparent similarities between the cases, the appeal decision referred to does not provide a justification for the appeal scheme before me which I have assessed on its own merits.
12. I therefore conclude that the proposed access track would be inappropriate development which would conflict with Policy PG3 of the Local Plan and policies in the Framework for the protection of the Green Belt.

Character and appearance

13. The proposal would introduce a long and wide surfaced track into a largely undeveloped landscape. It would not be in keeping with the surrounding open countryside. The track would be a dominant feature and it would not be sympathetic to the prevailing rural character of the area. Irrespective that it is proposed for the purposes of agriculture, when viewed in combination with the brick building, it would have a somewhat domestic and urbanising effect. It would result in the encroachment of built development into the countryside.
14. My attention has been drawn to a track in an adjacent field. Full details of that scheme are not before me. However, it is a relatively unobtrusive and short length of track which leads to an agricultural shed. The shed is set close to the edge of the field and it is in close proximity to other built development on Boundary Lane. It is not therefore directly comparable to the scheme before me, which does not relate well to surrounding built development or to the open countryside.
15. The proposed track would harm the character and appearance of the countryside. It would conflict with Policies SD1, SD2, SE1 and SE4 of the Local Plan which require, among other things, that development enhances the natural environment and respects the landscape, and makes a positive contribution to local distinctiveness and local character. It would also conflict with the landscape aims of saved Policy DC8 of Macclesfield Borough Local Plan Adopted January 2004.

Other Considerations

16. There is evidence to demonstrate that the building is used as part of an agricultural operation. At the time of my visit, the field had recently been harvested and it was apparent that the proposed route of the track at the edge

² Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

of the field had been driven over. There was little evidence, such as deep vehicle ruts, to suggest that vehicle movements in connection with the use of the building or the farming of the land have resulted in any significant damage to the ground over its extended period of use. Nevertheless, I appreciate that the track would make it easier to access to the land and the building, especially during periods of wet weather. In this respect, the proposal would benefit the appellant. However, agricultural activities take place throughout the country and there appears to be nothing exceptional about the operations carried out at this site. Therefore, this matter is of little weight in my assessment.

17. I note the suggestion that it is unreasonable to expect a lawful agricultural building to be used without appropriate access. However, the evidence indicates that the building has been in agricultural use since the late 1980s, including by the same agricultural tenant for more than 20 years. The building therefore appears to be useable even in the absence of an engineered track. Given its size and its seasonal and intermittent use in connection with a farming enterprise based elsewhere, this is therefore a matter that carries only limited weight in my assessment.
18. In addition to providing access to the building, the track is also proposed to give access the field beyond the building. There appears to be little justification for a track to serve the agricultural land. Most agricultural fields do have internal access tracks, and in any case the cultivation and harvesting of grassland in particular will generally be carried out during periods of dry weather when field conditions are suitable. This is not therefore a matter which carries any weight in my assessment.

The Green Belt Balance

19. I have concluded that the proposed track would be inappropriate development in the Green Belt. It would be an engineering operation that would fail to preserve the openness of the Green Belt and would conflict with the purposes of including land within it. This harm attracts substantial weight. The proposal would also result in a small adverse effect on the character and appearance of the countryside.
20. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In this case, there are no other considerations that would clearly outweigh the harm the Green Belt by reason of inappropriateness. Therefore, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

21. For the reasons set out above, and having regard to all other relevant matters, the appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR