



Appeal Decisions

Site visit made on 17 December 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal A: APP/R0660/W/19/3238030

Land off Davenport Lane, Mobberley WA16 7NB

- 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 S Lynn against the decision of Cheshire East Council.
 - The application Ref 19/1568M, dated 27 March 2019, was refused by notice dated 6 September 2019.
 - The development proposed is retention of timber shed used in association with recreational use of ponds.
-

Appeal B: APP/R0660/W/19/3238031

Land off Davenport Lane, Mobberley WA16 7NB

- 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 S Lynn against the decision of Cheshire East Council.
 - The application Ref 19/1560M, dated 27 March 2019, was refused by notice dated 6 September 2019.
 - The development proposed is retention of storage container.
-

Decisions

1. Appeal A in relation to a timber shed is dismissed.
2. Appeal B in relation to a storage container is dismissed.

Procedural Matters

3. As set out above there are two appeals on this site. Appeal A relates to an appeal against refusal of planning permission for a timber shed and Appeal B relates to a storage container. Whilst addressed in the same decision letter, I have considered each proposal on its individual merits.
4. The timber shed and storage container are already in place. Both applications are therefore retrospective and I have determined the appeals on the same basis.

Main Issues

5. The site is within the Green Belt. Accordingly, the main issues are:
 - Whether the timber shed and storage container are inappropriate development in the Green Belt;
 - The effect of the timber shed and storage container on the openness of the Green Belt; and,

- If the timber shed or storage container are inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed in each case by other considerations so as to amount to very special circumstances required to justify the development.

Reasons

Whether the development is inappropriate development in the Green Belt

6. The Council's saved Policy GC1 of the Macclesfield Borough Local Plan (2004) (MBLP), and Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030 (2017) (LPS) relate to the erection of new buildings in the Green Belt. These reflect the aims of paragraph 145 of the National Planning Policy Framework (the Framework). However, the appellant has drawn my attention to the discrepancy in wording of Policy GC1 as it relates to 'essential' buildings for outdoor sport and recreation. The wording of Policy PG3 of the LPS uses the term 'appropriate' development for outdoor sport and outdoor recreation which reflects the initial wording at paragraph 145 b) of the revised Framework. For the avoidance of doubt, the latter terminology is applied in these appeals.
7. The timber building with mineral felt roof is used in association with the ponds for private recreational fishing by the appellant and his son. The building is entirely enclosed and is large enough to accommodate benches on all sides about a central fire pit. The building is set some distance away from the edge of the nearest pond and features a large deck area that projects forward a distance equivalent to about half the width of the building and extends beyond its full length to wrap around one side. The overall footprint is consequently estimated to exceed 40 m² by the Council.
8. Based on the evidence and observations during my site visit, the facility appears disproportionate to the nature and scale of the recreational use of the land. Furthermore, the deck would serve little purpose for protection against the weather and be excessive for the sole purpose of boot removal as suggested by the appellant. In my opinion, the facility is excessive for the stated private use and the size of the lakes such that it would not constitute an appropriate facility for outdoor sport or recreation taking place on the site.
9. Policy PG3 and paragraph 145b) of the Framework impose the additional requirement that facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. These reflect the purposes and fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
10. The building is located in an area substantially free of built development. Only small structures and fencing are present within the Appeal A site area. The immediate surrounding fields are devoid of buildings aside from the container subject of Appeal B.
11. The combined structure is of excessive scale such that parts of the roof and rear elevation are visible from Davenport Lane, despite the presence of intervening hedging and trees. The introduction of the building and deck to a locality where buildings are very limited causes an undue loss of both spatial and visual openness and results in a form of encroachment into the open

countryside. The shed therefore fails to meet the requirements of PG3 of the LPS, and paragraph 145b) of the Framework.

12. Appeal B relates to the siting of a storage container. The use is not defined within the description of the development, however, the submitted evidence refers to its use in conjunction with the use of the land for agriculture and outdoor recreation. At the time of my site inspection, aside from small items for land maintenance, there was no agricultural storage taking place within the container. In the absence of evidence of the nature of any agricultural activities taking place or any requirement for secure storage associated with it, I conclude it is not a building for the purposes of agriculture.
13. Furthermore, pursuant to my findings in respect of the excessive scale of the timber shed, and the evidence before me, the use of the container in association with recreational use of the land for fishing would not be an appropriate facility for outdoor recreation due to its size and construction.
14. As a large structure located in a field otherwise free from buildings, the presence of the container also causes harm to spatial openness. Although the roadside hedge has been allowed to increase in height to enhance its screening effect, the nature of the structure is such that it does not have the character of agricultural buildings or structures found locally. Despite its colouration, the container stands out in the landscape. It is visible on the land above the hedge and through the nearby gateway opening from Davenport Lane. Its presence subsequently causes moderate harm to the visual openness of the Green Belt. and gives rise to a form of urbanising encroachment that conflicts with one of the Framework's stated purposes of including land in the Green Belt. The development would therefore also constitute an inappropriate form of development in the Green Belt.
15. The appellant has directed me to case law¹ establishing that the necessity to assess impacts on the openness of the Green Belt does not apply to development that is not inappropriate in the Green Belt. Having found the development to be an inappropriate form of development, I do not consider this applicable under the circumstances.
16. For the above reasons, I conclude that both the timber shed and storage container are inappropriate forms of development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

17. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. As described above, I have found that in addition to harm arising from inappropriateness, the structures give rise to moderate losses of spatial and visual openness of the Green Belt.

Other considerations

18. The appellant suggests that any requirement to remove the container is likely to cause more disturbance to wildlife than if it remains in situ. This reflects the comments of the Council's ecological adviser. In the stated knowledge of

¹ R (Lee Valley Regional Park Authority) v Epping Forest DC and Valley Grown Nurseries Ltd [2016] EWCA Civ 404

potential harm to biodiversity interests it is open to the appellant to appropriately manage the removal of the container, if required, such as to conserve habitat or restore or enhance local biodiversity interests upon it.

19. The argument that removal of unauthorised works cannot take place, particularly when installation of the structure would likely give rise to the same effects, cannot be attributed more than limited weight. Taking such an approach to its logical conclusion could lead to a proliferation of structures within areas afforded substantial protection.
20. It is contested that the structures are not designed to serve any other purpose than as described and that the shed was constructed specifically for the purpose of providing shelter and warmth. I observed that the container is a utilitarian structure capable of serving a wide range of uses. With regard to the shed, as described above, this includes additional elements that do not lend themselves to the stated purposes and use of the land. Furthermore, those purposes are capable of, and are often achieved in other, less intrusive or less permanent ways. As such, I attribute limited weight to those arguments.

Conclusions

21. The timber shed and storage container are inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that harm. Both buildings also reduce the openness of the Green Belt, which is one of its essential characteristics and conflict with the purpose of safeguarding the countryside from encroachment.
22. The timber shed has been erected for use in connection with the appellant's recreational fishery and provides shelter and warmth. It has also been constructed from recycled pallets and does not have any foundations which impact on trees. The container also has benefits by providing the only secure storage facility on the site and is located behind an existing hedge.
23. Nevertheless, in both cases the other considerations presented by the appellant do not clearly outweigh the harm that I have identified as a result of inappropriateness, the reduction in the openness of the Green Belt and conflict with one of its purposes. Consequently, the very special circumstances necessary to justify granting planning permission do not exist and both developments are contrary to Policy PG3 of the LPS and the Framework, which, of the policies referred to me by the parties are the most relevant.
24. I have noted the objections from local residents and third parties to the proposal. However, in the light of my findings on the main issues of the appeal, my decision does not turn on these matters.
25. For the reasons set out above, I conclude that both appeals should be dismissed.

R Hitchcock

INSPECTOR