The Planning Inspectorate

Appeal Decision

Site visit made on 29 May 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2020

Appeal Ref: APP/A0665/W/20/3247268
Peover Edge, Boots Green Lane, Allostock, Northwich WA16 9NH

- 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 Miss Jennie Carter against the decision of Cheshire West & Chester Council.
- The application Ref 19/04372/FUL, dated 6 December 2019, was refused by notice dated 31 January 2020.
- The development is stable block and change of use of land to equestrian use.

Decision

1. The appeal is allowed, and planning permission is granted for stable block and change of use of land to equestrian use, at Peover Edge, Boots Green Lane, Allostock, Northwich WA16 9NH, in accordance with the terms of the application Ref 19/04372/FUL, dated 6 December 2019, subject to the following conditions:

    1. The development hereby approved relates to the following plans: 57/17/LP, 57/17/BP and 06/19/1

    2. The development hereby approved shall be for private use only and shall not be used in connection with any commercial enterprise or business.

    3. No manure shall be stored at the site other than in a non-permeable/non-porous container which shall always be covered.

Procedural Matters

2. I have removed the following phrases from the description of development: "retrospective permission for" and "previously approved", as they are not aspects of development.

3. I observed that the stable block has been erected. I have made my decision on this basis.

4. For the avoidance of doubt, the approved development does not include the hardstanding within the site, gates at the site access or any external lighting.

Main Issue

5. The main issue is whether the development is consistent with the objectives of local and national policies relating to development in rural areas.

Reasons

6. Within the context of local planning policy, the site is located within the open countryside, on the northern side of Boots Green Lane, which is a no through road with a relatively small number of properties interspersed along it. The front boundary of the site comprises a hedge around 2 m high and gates around 1.8 m high. The northern and eastern boundaries of the site adjoin a field to the east/north-east which is in the ownership of the appellant. At the time of my site visit 3 horses were grazing in the field.

7. Policy DM8, 'equestrian development', of the Cheshire West and Chester Local Plan Part Two (LP Part 2), supports equestrian development that accords with other Local Plan policies and where certain criteria are met. Policy STRAT 9, 'countryside', of the Cheshire West and Chester Local Plan Part One (LP Part 1), restricts development in the countryside to that which requires a countryside location and cannot be accommodated within identified settlements.

8. I agree with the opinion of an Inspector colleague in appeal Ref APP/A0665/W/18/3193917, that the list of development types permitted by Policy STRAT9 is a permissive list and one that isn't closed, should the primary objective of the policy be met, ie protecting the intrinsic character and beauty of the Cheshire countryside, together with the scale and design of development not harming the character of the countryside. I also agree with the Inspector's opinion that in most circumstances the keeping of horses requires a countryside location and therefore stables for horses are common features in the countryside.

9. However, Policy STRAT 9 requires development to have an operational need for a countryside location. Notwithstanding my conclusions regarding the keeping of horses and stables generally requiring a countryside location, the fact that I saw 3 horses in the adjoining field during my site visit and that the appellant has submitted photographs of a horse box and horses in support of the application, does not enable me to unequivocally conclude that the horses I observed, and those shown in the photographs, are a) in the ownership of the appellant and b) require the appeal building to meet an operational need such as their welfare. In this regard, I consider the development does not accord with policies STRAT 9 of the LP Part 2 or DM8 of LP Part 1.

Other Considerations

10. Nonetheless, planning legislation requires me to determine the appeal in accordance with the development plan, unless material considerations indicate otherwise.[1] The Council has already granted planning permission for stables on the site under application Ref 17/03896/FUL. As the permission is extant, I consider this fallback to be a material consideration.

11. I note that the Council consider the appellant would not implement the fallback and therefore do not attach any weight to the matter. However, I consider that the appellant has clearly explained why they would implement the fallback, and I have no substantive reasons to doubt their intention. All that would be required is for a material start to occur on the extant permission, eg digging foundations. I can see no reason why the appellant would not take such action,

[1] Planning and Compulsory Purchase Act 2004, s38(6).

rather than potentially face enforcement action from the Council to remove the existing building, and thereby end up with no building at all.

12. The appeal building is positioned such that it fronts the road, rather than being at a right angle to it. It is also sited further into the site from the highway than the approved building. The appeal building is also around 0.5 m higher than the approved building, has a roof cupola, a slightly larger gable feature and a small window in each end elevation. I consider the appearance of the appeal building and that which has been approved to not be substantially different. Furthermore, I consider the appeal building does not have any greater impact on the character and appearance of the countryside than the approved building, which policies STRAT9 and DM8 primarily seek to protect. Finally, I note that the fallback could not be implemented in addition to the appeal building. Bearing all these factors in mind, I conclude that the extant permission is a fallback to which I attach substantial weight. It is for this reason that I am allowing the appeal, contrary to the development plan.

Other Matters

13. It has been asserted in representations that the appellant's is seeking to secure the building as an ancillary domestic building. I note the concerns. However, such a use would require planning permission. Should a planning application be submitted the Council would have to deal with it on its merits at such point in time.

Conditions

14. I have attached a condition specifying the plans for the avoidance of doubt and to confirm the development approved. I have attached a condition requiring the development not to be used for commercial purposes, in the interests of highway safety and the living conditions of occupiers of neighbouring properties. A condition regarding storage of manure is attached also in the interests of the living conditions of occupiers of neighbouring properties.

Conclusion

15. In light of the above, I conclude that the appeal is allowed.

J Williamson

INSPECTOR