



Appeal Decision

Site visit made on 7 October 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th October 2020

Appeal Ref: APP/A0665/W/20/3256800

Haulage Yard, High Street, Norley WA6 8JS

- 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 Hales against the decision of Cheshire West & Chester Council.
 - The application Ref 20/00659/FUL, dated 16 February 2020, was refused by notice dated 26 May 2020.
 - The development proposed is described as " the erection of a steel portal framed commercial building for the purposes of storage and maintenance of heavy goods vehicles (to match existing site use) (inclusive of change of use of part of the site – agricultural to commercial)".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Whether or not the appeal site is agricultural land is disputed between the parties. This is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 and I have determined the appeal on the basis of what was applied for which includes the change of use of land from agricultural to commercial.

Main Issues

3. The main issues in the appeal are:
 - Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the *National Planning Policy Framework* (the Framework) having regard to the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - The effect of the proposal on the living conditions of nearby residents with particular regard to noise and disturbance; and
 - If the proposal is 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, openness and purposes

4. The appeal site is located within the Green Belt as defined by the Cheshire West and Chester Council Local Plan (Part One) (adopted January 2015) (CWCLP1). Policy STRAT 9 of the CWCLP1 sets out that in the Green Belt development should be in line with the Framework.
5. Paragraphs 145 and 146 of the Framework set out the forms of development which are not inappropriate within the Green Belt. Paragraph 145 establishes that new buildings within the Green Belt are inappropriate unless they are for one of a limited number of exceptions. Paragraph 146 indicates that material changes of use of land are not necessarily inappropriate. This is conditional on the use preserving the openness of the Green Belt and not conflicting with the purposes of including land within it.
6. The appeal scheme involves both the change of use of the land and the erection of a new commercial building on the southern part of the site together with an area of hardstanding. The latter does not fall within any of the exceptions given in paragraph 145 of the Framework.
7. The appellant has highlighted that Policy STRAT 9 states that within the open countryside the expansion of existing buildings to facilitate the growth of established businesses may be permitted. However, even if it is considered that this applies to areas within the Green Belt as well as to those just in the open countryside, the proposal is for a new building not the expansion of an existing building.
8. Similarly, whilst Policy ECON 2 of the *Norley Neighbourhood Plan (made February 2016)* (NNP) supports proposals which extend or promote existing and new small scale sustainable employment opportunities that benefit the local communities and the local economy, this applies within the settlement boundary. The Council have indicated that the appeal site does not fall within the boundary for the village as defined by the NNP.
9. Openness is an essential characteristic of the Green Belt. It can be considered as the absence of buildings or development and is not just a visual consideration. The new building would be constructed on land that is currently open in nature and devoid of permanent structures. It would also result in the current use spatially occupying a wider area than it does at present. The size of the building means it would be clearly visible from High Street, nearby properties that overlook the site and the adjacent bridleway.
10. The appellant has suggested that the proposal would result in the removal of the existing storage containers and tarpaulins used to cover loads. However, unlike the appeal proposal, storage containers are not permanent structures. Moreover, no information has been provided as to which of the various containers on the site would be removed. Nor has any mechanism been provided to ensure their removal and that they are not relocated, or replaced by others, elsewhere on the wider site. As such, any benefit to the openness that might be gained from their removal cannot be ascertained.
11. Consequently, the creation of the new building, which would be of a significant scale and mass, would reduce the openness of the Green Belt.

12. As the site lies outside the village boundary it is within the countryside for planning policy purposes. As highlighted above, the appeal scheme would result in the current commercial use expanding to occupy a wider area. Therefore, the proposal would result in the expansion of development into what is classified as open countryside. Consequently, it would conflict with one of the purposes of the Green Belt as set out in paragraph 134 of the Framework, which is to safeguard the countryside from encroachment.
13. All in all, the proposal would result in a new building that does not accord with any of the exceptions given in paragraph 145 of the Framework. In addition, the change of use of the land would not preserve the openness of the Green Belt and would conflict with one of the purposes of including land within the Green Belt, contrary to paragraph 146. Therefore, I conclude that the proposal would be inappropriate development, which according to paragraph 143 of the Framework is, by definition, harmful to the Green Belt. In addition, there would be a degree of harm arising from the loss of openness, and I afford the Green Belt harm significant weight.

Living Conditions

14. The appeal site has residential properties located to the south east, north east and north of the site, with the former being the closest. Due to the topography the house to the south east is lower than the site, whilst those to the north and north east are higher.
15. It is indicated that the proposed building would be used to maintain vehicles, plant and machinery as well as for the storage of spare parts and tools. The plans indicate that the areas of hardstanding to either side of the building would be used for parking and open storage. Whilst it is stated that the land is currently used for the storage of materials and vehicles, it was clear at my site visit that operations are focused on the area north of the appeal site. As such, even though it is stated that the proposal would not result in an increase in the haulage activities on the entire site, it would lead to an intensification in the use of the appeal site. Despite the difference in levels and current boundary treatment, this has the potential to cause greater noise and disturbance particularly to the dwelling to the south east as it would result in a greater level of activity taking place much closer to that property.
16. The plans indicate the proposed building and areas of hardstanding would be surrounded by earth bunding, but no details of this have been provided and therefore it is not possible to assess whether this would act as an acoustic barrier. Nor has a noise assessment been provided.
17. In the absence of any such evidence, I am not satisfied that the proposal would not have an adverse impact on the living conditions of nearby residents with particular regard to noise and disturbance. Therefore, it would conflict with Policies SOC 5 of the CWCLP1 and DM2 of the Cheshire West and Chester Council Local Plan (Part Two) (adopted July 2019) which seeks to ensure developments do not have an adverse impact on residential amenity and the quality of life of residents.

Other Considerations

18. It is indicated that due to the increasing size of vehicles and machinery the current workshop building on the site is not large enough or fit for purpose. In

addition, the proposal would enable the current building to be used for storage of materials and equipment that currently have to be stored outside. It is indicated that this would improve the efficiency of the business and enable the firm to remain competitive. However, there is no indication why a fit for purpose replacement building could not be accommodated on the current site and so I only give this benefit moderate weight.

19. It is not disputed that the Framework seeks to support the sustainable growth and expansion of rural businesses to help ensure a prosperous rural economy, or that the current pandemic has had a major economic impact. However, whilst the government has made various amendments to the planning system in the light of this, this has not included any changes to national Green Belt policy.
20. It has been suggested that the proposal would improve the appearance of the site by removing various of the temporary storage containers on the site. However, as highlighted above there is no indication of how many of these would be removed and no mechanism is before me to ensure that this would occur. As such, these could be retained or just moved to other locations on the site. Therefore, I am not persuaded that the proposal would necessarily result in any visual enhancement of the site.
21. The appellant has argued that the appeal site is too small and too contaminated to be used for agricultural purposes. However, the Council have indicated that the assessment criteria within the contamination report are not suitable and so the report does not provide sufficient evidence to show that an agricultural use could not be supported. In addition, the council state that an application was approved in 2007¹ to deal with the contamination of the site and that whilst contamination may be present, historically it has not been at a level that prevented agricultural use. Nevertheless, even if the site cannot be used for agricultural purposes that does not justify the appeal scheme which I have concluded would be inappropriate development within the Green Belt.

Conclusion

22. The proposal would be inappropriate development in the Green Belt which is harmful by definition. In addition, there is a degree of harm arising from the potential loss of openness, and from the encroachment into the countryside, contrary to the purposes of including land in the Green Belt. In accordance with paragraph 144 of the Framework, I attach substantial weight to the harm to the Green Belt. Furthermore, it would have an unacceptable impact on the living conditions of nearby residents. Overall, I consider that the benefits cited in the scheme's favour do not clearly outweigh the harm it would cause. Consequently, the very special circumstances necessary to justify the development do not exist. As a result, the proposal would be contrary to the Policy STRAT9 of the CWCLP1 Framework. Therefore, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR

¹ Application Reference 07-3338-FUL