



Appeal Decision

Site Visit made on 9 June 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2021

Appeal Ref: APP/H4315/W/21/3269266

Hey Field Farm, Garswood Old Road, Ashton in Makerfield WN4 0XR

- 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 Mrs and Mrs S Bretherton against the decision of St Helens Metropolitan Borough Council.
 - The application Ref 2020/0664/FUL, dated 1 September 2020, was refused by notice dated 11 December 2020.
 - The development proposed is change of use of agricultural land to equestrian use. Erection of stable block for 6 horses with tack and feed rooms. Construction of all weather riding surface. Stationing of residential caravan (14.5 x 6 metres).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address on the application form states, '*Hey Field Farm, Old Garswood Road, Garswood*'. This is incorrect and for clarity, I have taken the site address from the appeal form, section D.
3. The main parties have agreed that the part of the proposal relating to the stationing of a residential caravan/mobile home would represent inappropriate development in the Green Belt as defined in the National Planning Policy Framework (the Framework). I concur with that position and have dealt with the appeal on this basis.
4. Within the information before me, references have been made to policies in the St Helens Local Plan 2020-2035 Submission Draft (2019). Whilst I have had regard to these, their weight in my decision has been limited on account of the findings of the Examination in Public being awaited.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect on the character and appearance of the area;
 - The effect on the living conditions of future occupiers, with particular regard to noise, disturbance and wellbeing;

- The effect on biodiversity;
- The effect on the safety, integrity and operational needs of the railway;
- The effect on land stability, with particular regard to historic coal mining activities; and
- If the development is inappropriate in the Green Belt, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

6. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The exceptions are set out in paragraph 145 of the Framework, and relate solely to the construction of new buildings 'facilities' and includes (b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
8. Paragraph 146 of the Framework, sets out that certain other forms of development are also not inappropriate in the Green Belt, including at (e) material changes in the use of land (such as changes of use for outdoor sport and recreation), provided they preserve its openness and do not conflict with the purposes of including land within it. Therefore, in this case, paragraph 146 (e) would include elements of a proposal which are engineering operations, such as vehicular access with roads, car parking areas, and the all-weather equestrian area.
9. Saved Policy GB1 of the St Helens Unitary Development Plan, 1998 Saved by way of direction 2007 (UDP) sets out the general criteria for development control in the Green Belt. It includes essential facilities for outdoor sport and recreation. Saved Policy GB2, is subject to the provisions of GB1 and seeks, amongst other things, that development does not conflict with the purposes of including land in the Green Belt. Although, there are differences in the wording, insofar as they relate to the issues in the appeal before me, I consider these saved policies to be consistent with the approach of Green Belt policy in the Framework.
10. The appeal site extends some 2.55ha and is a grassed field enclosed by post timber and wire fencing, located within the open countryside, Green Belt and outside of any settlement boundary. Towards the north directly adjoining the boundary is the railway line, to the west is an embankment to the side of the railway overbridge and to the east are adjacent agricultural fields. The site is accessed via an existing gate from Garswood Old Road, a tarmac single-track private road with a public right of way running along it.

11. The proposals incorporate the change of use of the land from its agricultural use, a former farm enterprise holding that was divided into parcels and sold separately to a use of keeping horses, other animals and associated facilities. It would consist of the erection of a stable block for 6 horses/animals, tack rooms, shower area and an all-weather riding area. This would be used by the appellant as well as therapy for children and young people with mental health challenges.
12. The appellant has indicated that donkeys, alpacas, chickens, rabbits, guinea pigs, dogs would also be kept at the site and that all animals including horses would be housed within the stables. Other outdoor activities for recreation include tree, vegetable planting, arts and crafts and animal care would take place. The all-weather riding surface (manège) would be designed also for the use relating to health and wellbeing.
13. Public visits to the site are indicated to be by appointment only and the appellant states it would be likely to be no more than 2 trips to the site by minibus per day and availability would be of at least 14 hours per week to accommodate structured sessions and activities on the site. The working hours proposed are Monday to Friday 09:00hours to 17:00hours, with sessions from 09:00hours to 15:00hours and is intended for key specific age groups from 5-18 years.
14. These proposals (excluding the residential caravan/mobile home) would be for the purposes for outdoor sport and outdoor recreation, they would fall within the definitions of paragraph 145(b), and 146(e). However, my conclusions on the next issue, its effect on Green Belt openness and purposes, will determine whether the proposed development is inappropriate.

Openness and purpose

15. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual and spatial element. The appeal site is currently an area of grassland, devoid of any permanent buildings, structures or hardstanding, highly visible within the immediate and wider landscape due to the topography of the area, and therefore contributes to the openness of the Green Belt.
16. Despite, the buildings being single storey and set against the embankment to the western edge of the site, and that stables are not uncommon within the countryside. The erection of the stable block with tack rooms, new access road, new parking, extensive gravelled hardstanding areas, large stone based manège with membrane, sand and topped with rubber chippings enclosed by timber fencing would have a significant adverse impact on openness.
17. Furthermore, I am not satisfied that there would not be additional built form including structures, equipment and fencing within areas of the site to facilitate picnics, areas for stocking of eggs, vegetable gardens, chicken feed storage, outside areas for arts and crafts, waste storage and the requirement for other animal housing.
18. Moreover, with the cumulative impact when combined with the proposed residential caravan / mobile home, which would be sited on a hardcore base,

be of a significant scale, it's required connected services and associated domestic paraphernalia, whether transportable or not, and the parking of vehicles for both domestic and commercial, including large horse boxes would further add to the scale of built form. Overall, the proposals would have a detrimental visual and spatial presence within a currently empty field, thus causing significant harm, failing to preserve openness and leading to the significant loss of openness to the site.

19. Whilst the site is enclosed by fencing, mature trees and vegetation surround the boundaries, it would still be visible from public views along Garswood Old Road. Given the proposal is for built form of significant scale, bulk and massing, it would be clearly discernible in those views even if, supplementary native landscaping was to be provided and it were to mature over time.
20. Paragraph 134 of the Framework sets out that the Green Belt serves five purposes. Purpose c) is to assist in safeguarding the countryside from encroachment. The appeal site is a grassed field and the proposals would result in built development into currently open land. It would therefore conflict with purpose c).
21. For the reasons given above, the proposed development would harm the openness of the Green Belt in both visual and spatial terms, it would fail to preserve openness and it would not assist in safeguarding the countryside from encroachment. The proposals would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above. I conclude the proposals would be contrary to Policies GB1 and GB2 of the UDP.
22. As the appeal scheme would not meet any of the exceptions in paragraph 145(b) or paragraph 146(e) of the Framework, it would constitute inappropriate development in the Green Belt.

Character and appearance

23. The appeal site lies within the 'Arch Lane Slopes Landscape Character Area'. The Landscape Character Assessment for St Helens, 2006 (LCA), identifies it as medium to high landscape sensitivity with the area being raised and gently undulating broadly of simple slope landform with wide and long views. The LCA identifies it as an agricultural area medium to large arable fields, pastureland, repetitive landscape pattern and a number of isolated large farms. It considers the railway line forms a prominent feature limiting views across the slopes, and there has been some encroachment of urban elements into the rural area.
24. The LCA strategy is to conserve and restore, particularly with landscape management including woodland and restoration of hedgerows. It considers that generally this area is not suitable to accommodate development and the railway line at Garswood should be considered constraints to further development.
25. The proposed development would introduce built form into a grassland field, which positively contributes to the open character of this part of the countryside, being open fields bounded with low hedgerows and established trees. The proposals would be prominently sited due to the topography and open nature of the fields within the area. The extent of the scale of the buildings, manège, residential caravan, road and both commercial and domestic paraphernalia associated with the proposals would be highly visible

from public viewpoints within the landscape, particularly along Garswood Old Road. Resulting in the proposals being detrimental to the visual qualities of this landscape setting.

26. Whilst the embankment contains a narrow belt of woodland and potentially, in the absence of existing tree information and limited landscaping detail, could lead to future pressures to remove or reduce trees, which are a feature that positively contribute to the local landscape character and its distinctiveness. I am not convinced by the appellant's contention regarding the imposition of a tree protection order, this would be a future matter for the Council. Furthermore, I am not persuaded by the appellant's argument that they need to establish the principle of the development before proceeding to consider such detailed matters, particularly as the proposals would be within a designated landscape area within open countryside.
27. Consequently, I conclude the proposed development would cause harm to the character and appearance of the area. It would be contrary to Policies CP1, CQL2 and CQL4 of the St Helens Local Plan, Core Strategy, 2012 (CS). Taken together these policies, require proposals to maintain or enhance the overall character and appearance of the local environment; safeguard or enhance landscape character; protect trees, woodlands and hedgerows; and ensures new development respects the significance and distinctive quality of the landscape character and is of a high standard of design, reinforcing St Helens local distinctiveness.

Living conditions

28. The appeal site is a considerable distance away from any existing residential properties, some distance to local farmsteads and associated agricultural activities and would be along a private road. It would introduce a noise sensitive residential use that would be sited within the grounds of a commercial venture involving horses, other animals, public comings and goings in close proximity to the proposed residential home. Moreover, it would be close to the railway land which includes operational railway tracks. Without suitable mitigation this is likely to expose future occupiers of the proposed residential unit to undue noise disturbance and could potentially impact on the future wellbeing of occupiers.
29. Despite the Council not providing the noise comments, I have not been provided with any substantive technical evidence, other than the appellant setting out that the expectation of the caravan would be a high specification providing thermal and acoustic insulation. Therefore, from the evidence before me, I am not satisfied that the proposal would not cause significant harm to the living conditions of future occupiers, with particular regard to noise, disturbance and wellbeing. As such, in the absence of insufficient evidence, I must conclude that the proposal would be contrary to Policy CP1 of the CS, where proposals will be expected to meet standards, by ensuring that the amenities of occupiers of the new development will not be adversely affected by neighbouring uses and vice versa.

Biodiversity

30. The site is within the Natural England SSSI Impact Risk Zone (IRZ) for Goose and Swan Functional Land. The Council's ecologist confirms that priority habitats, including Ancient Woodland and records of protected species,

including badgers are present within the proximity of the site. As such, a preliminary ecological appraisal meeting the standards of BS 42020:2013 is required prior to any determination and should include a desk study, an extended phase 1 habitat survey and an assessment of the potential for protected species to be present and appropriate mitigation for priority habitats. Despite, the landscaping being shown on the plans, there is limited strategy proposed and there is no details, including that of a survey of existing trees within or around the site boundaries.

31. The Council confirm that no ecological surveys were provided at the time of the planning application. I acknowledge that not all the consultation responses relating to ecology were forthcoming at the planning determination stage and this was not a reason for refusal. Nonetheless, the appellant has seen this as part of the appeal case and has indicated that they would welcome a condition relating to a strategy for landscape and ecological enhancement of the site within 3 months of development commencing, once the principal of the proposal is established. I am not persuaded by this argument, and consideration must be given on how the proposals will affect any nearby SSSI, biodiversity and those protected species.
32. The Framework at paragraph 175, states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or as a last resort, compensated for then permission should be refused. Development on land within or outside a SSSI, and which is likely to have an adverse effect on it, individually or in combination with other developments, should not normally be permitted; and development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland or veteran trees) should be refused, unless there are wholly exceptional reasons.
33. Even though, I have no comments from Natural England, I must apply the precautionary principle and find the proposal would cause harm to biodiversity and those protected species. As such, on this basis I conclude that there is insufficient information to demonstrate that there would be no harm to biodiversity. It would therefore not meet Policy CQL3, which aims to protect and manage species and habitats. It would also be contrary to the provisions of the Framework, relating to biodiversity and habitats.

Railway operations and safety

34. Due to the proximity of railway land to the North of the appeal site, Network Rail were consulted and have raised an objection to the proposal. The objection relates to clarification of measurements to the proximity to railway tracks and the railway boundary, land ownership, prevention of animals on the line, solar panels and the land stability. During the planning application the appellant amended the site red edge boundary to the North and clarified there would be no encroachment. However, from the evidence before me, it appears that the appellant has not actively engaged with Network Rail, before and during the planning application process. There is nothing before me to confirm that Network Rail has formally withdrawn its objection to the proposal.
35. Despite this, I am not persuaded that the proposed development itself would directly impact on the safety, integrity or railway operations. Matters relating to consents for any access over third party land, structures, construction works, embankment drainage, are separate planning merits of the proposal, which could be dealt with outside the planning process, if the appeal were to succeed.

Furthermore, the matters of the solar panels and boundary treatments could also be agreed by suitably worded conditions.

36. Accordingly, in my view, the outstanding objection from Network Rail is not in itself a reason for refusing permission and the proposal would not affect the safety, integrity and operational needs of the railway. This, however, does not outweigh the other harm I have already identified. I therefore conclude that there would be no conflict with CS Policies CP1 and CP2, which seek amongst other things to ensure access to local facilities by protecting and enhancing public transport facilities; meet standards for environmental quality and resource management.

Land stability, coal mining

37. The Council have raised concerns over the appeal site in regard to historic coal mining activity at the site. The appellant submitted a Coal Mining Risk Assessment¹ and the Coal Authority (CA) removed its previous objection to the proposed development. The CA have concurred with the conclusion / recommendations of the assessment, provided that the mitigation as proposed is carried out in relation to the two-on site mine entries. I see no reason why a suitably worded condition would not ensure remediation and/or mitigation is carried out safely and appropriately within the site.
38. Notwithstanding the above, I accept that the Council has concern over the location of the roadway, any fencing and the harm to openness this could cause. Nevertheless, I have already concluded on this matter above. Given that there is no objection from the CA, I conclude that the proposal would not cause harm to land stability in regard to historic activities of coal mining within the appeal site. It would therefore not conflict with Policy CP1 of the CS, which requires development to meet minimum standards of environmental quality and resource management. This issue on land stability, does not outweigh the harm already identified.

Other Considerations

39. The appellant suggests that the proposed development would provide therapy, wellbeing and help with mental health for children and young people. I acknowledge the letters of support received from 'Willow Grove Primary School', 'Helping Support People' and 'the happiness club'. Although these provide support for such proposals in regard to local provision, and there would be benefits of learning in the outdoors and much needed life experiences for youngsters, of which I attribute substantial weight to. It does not provide any substantive evidence of any such commitment that the local schools or charity / club would utilise the facility or to the extent of their involvement in running such a community facility or club.
40. Although the number of horses that could be accommodated at the site would be in accordance with British Horse Society standards, and that there is a campaign for "changing lives through horses" this would neither way in favour or against the proposal. I accept that there are some benefits which range from matters of physical and mental wellbeing derived from engaging with looking after and riding horses, however this would be a moderate benefit given the number of horses proposed at the site and the amount of commercial activity

¹ Peak Environmental Solutions, document reference:42102R1 Draft Rev A1, November 2020

in connection with horses. The wellbeing of the appellant and family in connection with the horses, would be a limited private benefit to the individual involved.

41. The appellant has provided details of a survey which was responded by some 142 people. This appears to have a higher percentage of responders being within the borough of Wigan, rather than the borough of St Helens that the appeal site falls within. It appears rather sketchy, lacking on detail on questions that would specific and directly relate to the proposals / activities that would take place within the site location before me. Albeit mental health and wellbeing in younger people are important issues and attract significant weight, I have given this survey limited weight as it does not provide any substantive evidence relating directly to the demand, nature or benefits of the proposals.
42. The appellant has suggested the site would have benefited from scope to erect buildings under agricultural permitted development rights, which would run counter to supporting landscape or ecological enhancement of the site. Whilst, this may be the case, it is not the scheme before me for any such buildings, and in the absence of any evidence of a genuine 'fallback', including any lawful certificate or prior approval consent, based on the evidence before me, I therefore give little weight to this matter.
43. The appellant has set out the need for residential accommodation at the site as the proposals would not be viable without a residential presence to protect investment in structures, materials, supplies and livestock and that the benefits will not be secured if a residential presence cannot be accepted. I acknowledge the 'business overview'. However, I have no substantive evidence of viability, including projected forecasts or figures that the commercial use of the site would not be viable without the residential element.
44. Neither, would it be unrealistic for future employees nor family members to commute to the site to provide site supervision during the daytime hours of activity times put forward, particularly as I have been provided with limited evidence to demonstrate the need for onsite care for the horses, or other animals and that alternative residential accommodation could not be secured within the local area. Moreover, I have not been provided with any evidence that would indicate that the previous use of the site, leading to the fragmentation of the farm unit, sale in parcels of land was not economic viable or that the land is not of the best and most versatile quality. There would be some economic benefits with the commercial aspect of the scheme, but this would be limited due to the quantum of commercial development proposed.
45. I have been referred to details of crime in the area, where the appellant suggest that Merseyside Police report significant local concern over rural crime, including anti-social behaviour, theft of equipment, tack and diesel and adjoining landowners have reported such issues. Nonetheless, this appears to be generalised from 'hear say' than from any technical evidence including data, provided of such criminal activities.
46. Furthermore, it appears that crime rates within half a mile were obtained by the Council, and that theft and burglary are low. In the absence of any evidence to the contrary, I am not satisfied that the fear of crime justifies the need for any onsite residential accommodation. Moreover, there would be other options open to the appellant to monitor the site remotely for long periods

including CCTV and security systems. It is not uncommon for stables, and manèges within countryside locations to be remotely monitored for such concerns of animal welfare and fear of crime, I therefore attach limited weight to this consideration.

47. Although the proposal would not cause any harm to highway safety, has an established vehicular access point, links to footpaths and generate limited commercial trips to the site per day. These considerations do not weigh in favour or against the proposals.
48. I note that local residents have expressed additional concerns about the proposed development, including highway safety, vehicle access, existing living conditions, waste management, noise/smells, lighting pollution. However, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those concerns. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.

Conclusion

49. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposals would reduce the Green Belt's openness, which gives rise to additional harm and it would not assist in safeguarding the countryside from encroachment. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
50. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and the other harm I have identified including the harm to the living conditions of future occupiers, character and appearance of the area and biodiversity. Consequently, the very special circumstances necessary to justify the development do not exist.
51. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
52. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR