



Appeal Decision

Site Visit made on 25 August 2021

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2021

Appeal Ref: APP/R0660/W/21/3273605

Hunters Gate, Byley Lane, Cranage, MIDDLEWICH, CW10 9LW

- 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 Stefanie Swallow against the decision of Cheshire East Council.
 - The application Ref 20/2093C, dated 22 May 2020, was refused by notice dated 27 November 2020.
 - The development proposed was originally described as demolition of part of existing stables and construction of new outdoor tennis court - to be sited partially on garden of adjacent house and partially on land acquired through demolition of stables.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of part of existing stables, construction of new outdoor tennis court and replacement garage at Hunters Gate, Byley Lane, Cranage, MIDDLEWICH, CW10 9LW in accordance with the terms of the application, Ref 20/2093C, dated 22 May 2020, subject to the attached schedule of conditions.

Procedural Matters

2. The description of development set out in the banner heading is taken from the application form, but it is clear from the plans that the proposal also comprises a replacement garage. I have therefore dealt with the appeal on that basis, and have altered the description of development accordingly in my decision. I have also omitted details of the siting of the proposed tennis court from the description, as this does not specify an act of development and is superfluous.
3. Since the Council made its decision, a revised version of the National Planning Policy Framework (the Framework) has been issued. Both parties have been invited to comment on any implications that the revised Framework may have in relation to this appeal, but no issues have been raised. I am satisfied that the changes in the revised document do not prejudice either party's case, and have assessed the appeal on the basis of the 2021 version of the Framework.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. Hunters Gate is a traditional style farmhouse with a single storey annex to the side. The house, which is sited perpendicular to Byley Lane, fronts onto a courtyard bounded by a series of large barns, which are in use as an indoor equestrian centre. To the east side of the house is a further barn which is used for stables, beyond which is a manège. The site is within the countryside and is surrounded by open fields on three sides.
6. The proposed tennis court would be sited on the east side of the house, between the annex and stables. A significant proportion of the facility would be within the existing garden area, but in order to fully accommodate it, part would be sited on land currently occupied by the stables building. For the purposes of the development plan, this area falls within the open countryside. As such, Policy PG6 of the Cheshire East Local Plan 2017 (Local Plan) applies.
7. The key objective of Policy PG6, as set out in paragraph 8.66 of the justification, is to preserve the countryside which is cherished for its scenic, recreational, aesthetic and productive qualities. In order to achieve this, the policy restricts development within the open countryside to that which is essential for a number of purposes, including outdoor recreation. The development plan makes no distinction between outdoor recreation facilities for private or public use, so the proposed use of land for a tennis court would fall within the provisions of Policy PG6.
8. Whilst it may be difficult to argue that a domestic tennis court is an essential facility, the proposed incursion beyond the existing garden area would be small. The area concerned is occupied by built development and forms part of the farmstead complex. Visually, it is well contained by existing buildings and structures on three sides. On the fourth side, the proposed facility would extend no further than the existing garden fence. Consequently, the proposal to site part of the tennis court beyond the existing garden area would not result in any loss of currently undeveloped land, nor would it visually intrude into the wider open landscape.
9. Unlike the existing barn, a tennis court is not a typical feature of a traditional rural farmstead. However, most of the facility would be sited within the existing garden, to which there is no objection. The tennis court would be visible from within the site, but when viewed from outside, the adjacent substantial buildings and structures would provide significant screening, particularly from the south and east sides. When viewed from the north and west, the proposed tennis court would be seen within the context of the existing complex of buildings and structures, beyond which it would not protrude. The mesh fencing, although fairly high, would retain a degree of openness through the site. As a result, the tennis court would not appear obtrusive or prominent within its setting.
10. Due to the presence of the surrounding barns, any increase in the openness of the site resulting from the proposed partial demolition of the stables would be limited. Notwithstanding that, the proposal would not visually intrude into the wider open rural landscape. Importantly, it would not harm the intrinsic character and beauty of the countryside, which Policy PG6 seeks to preserve.
11. Saved Policy H17 of the Congleton Borough Local Plan 2005 (CBLP) seeks to avoid incremental encroachment of residential areas into the open countryside

arising from the change of use of agricultural or other undeveloped land to domestic gardens. The proposed extension of the garden area is not needed to provide a minimum standard of residential amenity, so would not fully comply with the detailed wording of the policy. However, the proposed incursion into open countryside would be small and would not adversely affect areas of nature conservation, landscape or historic interest. The land involved is not undeveloped and the proposal would not threaten the openness and rural character of the area. As such, the proposal would not undermine the key aim of Policy H17.

12. Planning permission has previously been granted for a tennis court in a slightly different location. This existing permission, which would necessitate reconfiguration of the existing annex, allows for a scheme which would be wholly within the existing garden area. Although the extant scheme would not intrude into the open countryside, the visual impact of the two proposals would not be significantly different and I have found that the current proposal would not have a harmful impact on the rural character of the area. As the proposal before me is acceptable, the existence of an alternative option for siting the tennis court does not provide a clear reason to dismiss the appeal.
13. I conclude that the proposal would not cause harm to the character and appearance of the area. The proposal would not lead to harmful domestic encroachment and there would be no perceptible harm to the open countryside. Although the proposal would not fully comply with the detailed wording of Saved CBLP Policy H17, the proposal would be consistent with the key aims of Local Plan Policy PG6 and Policy H17, both of which seek to preserve the countryside.

Other Matters

14. In addition to the proposed tennis court, the submitted plans also show a detached garage which would replace an existing building in a similar position between the house and adjacent substantial barns. Although larger than the existing garage, the proposed replacement would be sited close to the house and would be viewed in the context of surrounding, substantial buildings. It would not intrude visually into the surrounding open countryside, and so would be acceptable. Full elevational details of the proposed garage have not been supplied, but these could be provided through a suitable condition, which would be necessary to safeguard the rural character of the site.

Conditions

15. The Council has suggested a number of conditions which I have reviewed in accordance with the relevant advice in the Planning Practice Guidance. In addition to the standard implementation and plans condition, I have imposed a condition requiring further details of the proposed garage, for the reasons set out above. A further condition controlling the materials to be used in the tennis court and stable block is also necessary, to safeguard the character and appearance of the site. As the proposed surface material for the tennis court has not been clearly specified and could be a grass court, I agree that it is necessary to impose a condition requiring verification that any imported material is free of contamination, in the interests of protecting health.
16. Appropriate controls over any future external lighting scheme are necessary, to safeguard biodiversity and the rural character of the area. A condition

requiring the incorporation of features suitable for use by breeding birds is reasonable to ensure that the scheme contributes positively to biodiversity, in accordance with the objectives contained in paragraph 174d) of the Framework. I have therefore imposed the Council's suggested conditions which address these issues.

Conclusion

17. For the reasons set out above, the appeal is allowed subject to the attached conditions.

R Morgan

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Revised Site/location plan – (191) 0101 P01
 - Existing site plan – (191) 0102 P01
 - Demolition site plan – (191) 0103 P01
 - Proposed site plan – (192) 0104 P01
 - Proposed site plan (close up) – (192) 0105 P01
 - Existing and proposed site section A – (192) 0107 P01
 - Existing and proposed site section B – (192) 0108 P01
 - Existing and proposed site section C – (192) 0109 P01
- 3) Prior to the construction of the replacement garage hereby permitted, details of the elevational treatments and the materials to be used on the external surfaces shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The materials to be used in the retained stable block and tennis court shall be as specified on the application form, unless different materials are first agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) Should any soil or soil forming materials be brought onto site for use in the tennis court, verification that it is free of contamination shall be submitted to, and approved in writing by the local planning authority, prior to first use of the facility.
- 6) Prior to the first use of the buildings hereby approved, detailed proposals for the incorporation of features suitable for use by breeding birds, including house sparrows, shall be submitted to and approved in writing by the Local Planning Authority. The approved features shall be permanently installed to an agreed timetable and thereafter retained.
- 7) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to its installation. Development shall be carried out in accordance with the approved details.