



Appeal Decision

Site Visit made on 30 September 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2021

Appeal Ref: APP/R0660/W/21/3277367

Mill Lane, Over Peover, Knutsford, Cheshire WA16 9QX

- 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 P Eccles against the decision of Cheshire East Council.
 - The application Ref 20/3022M, dated 2 July 2020, was refused by notice dated 22 December 2020.
 - The development proposed is re-instatement of barn for the storage of agricultural and farming equipment.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. I have had regard to the Framework in my decision and I am satisfied that this has not prejudiced any party.

Main Issues

3. 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 of the proposal on non-protected trees; and
 - If the proposal is inappropriate development, whether 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

4. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 149 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 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in

very special circumstances. The exception which is set out at paragraph 149(a) of the Framework, is buildings for agriculture and forestry.

5. Saved Policy GC1, of the Macclesfield Borough Local Plan, 2004 (MBLP) which relates to new buildings in the Green Belt is inconsistent with the wording in the Framework. I have therefore given this policy limited weight in this decision. Policy PG3 of the Cheshire East Local Plan, Local Plan Strategy 2010-2030, 2017 (CELPs) sets out the Green Belt purposes, relevant criteria exceptions for the construction of new buildings in the Green Belt, and that permission will not be granted for inappropriate development, except in very special circumstances, it is consistent, and in accordance with the Framework.
6. The appeal site is located within the Green Belt and is a parcel of land to the south of Mill Lane. Access to the site is via a metal entrance gate. There are limited boundary treatments as the majority of the site is enclosed from tree and vegetation coverage. There is an existing timber framed building within the site, identified as 'barn 2', although there is limited evidence of when this was erected. Nonetheless, the appellant confirms this does not form part of the appeal. Therefore, the proposal is for the construction of a barn as a re-instatement for a collapsed barn in 2019, identified within the appeal as 'barn 1'.
7. There are no limiting criteria in the Framework at paragraph 149(a), including size, reinstatement and any other matters. Consequently, if the proposed building is for agriculture and forestry, it would not be inappropriate development. In this case, the Council contends they do not consider the appeal site or proposed building 'barn 1' to be one which is connected with agriculture to satisfy the exception within Green Belt policy, at both national and local level.
8. The appellant sets out that the appeal site comprises of a smallholding and has a historical agricultural use. They confirm the site was 'once' an arboreal nursery of Brookdale Nurseries with two of the barns on the site for the storage of farming and agricultural equipment. However, I have not been provided with any evidence of the former use in connection with the 'arboreal nursery', including actual agricultural activities or when this use ceased. Furthermore, there appears to be no evidence of the planning history at the site.
9. The appellant's evidence sets out that the former 'barn 1' was a brick barn of simple rectangular form and basic construction. Prior to its collapse in 2019, it had been used for the storage of farming and agricultural equipment (plough equipment, agricultural tools and similar machinery) and as a dry store for animal feed, crops and fertilisers. I acknowledge the photographs from 2012, but these do not show the precise details of the former barn, its use or any activities that took place, and in my opinion show that the barn was in somewhat of a degenerative state at that time even prior to the collapse.
10. The appellant has provided further evidence, which includes letters setting out what 'barn 1' had been used for. It advises that it was used primarily as a "dry store" for hay and straw keeping crops dry and 'most recently' by the appellant and a local farmer. Whilst the letters indicate that farming activities and storage was run on the site, within the former building, there is no evidence as to over what period of time the building was used for the purposes of agriculture. It does not set out exact details of the alternative provision of storage when this ceased in 2019 following the buildings collapse.

11. Furthermore, I have not been provided with any evidence of a registered smallholding in connection with the appeal site or wider area that the appellant may own or where the animals are present, and their farming activities take place. Neither is there any evidence connecting the local farmer to the appeal site or where this farmer is located. The evidence does not demonstrate and lacks justification that an agricultural use has taken place or has been continuous.
12. I saw at the time of my site visit, there were limited remains of the 'building'. and although there was some evidence of equipment and timber being stored on the site including a tractor, the continuing agricultural use as described by the appellant was not quantified. Moreover, the evidence before me must demonstrate that the proposed building would solely be for agriculture and/or forestry. As such, taking into account my observations and the evidence received, I am not convinced that the appeal site or former building has been in continuous agricultural use, or that its last use was for such purposes.
13. On the basis of the evidence before me, insufficient evidence has been provided that on the balance of probability the appeal site and former building have solely been in agricultural use. I am not satisfied that the proposal would be for agriculture and forestry, and as such I must find it is not. Therefore, the proposal would not meet the exceptions in paragraph 149(a) of the Framework, it would form inappropriate development in the Green Belt.

Openness

14. As set out in paragraph 137 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.
15. Despite, the footprint and materials of the proposed barn being similar to the previous barn. There is limited evidence of the size and height of the previous building, and this appears to be have been estimated from belief. The proposed barn would have two floors and be of significant height. It would be positioned in close proximity to the roadside frontage. Therefore, the erection of the barn, associated hardstanding would have a significant adverse impact on openness.
16. Whilst the site is enclosed by mature trees and vegetation surrounding the boundaries, it would still be visible from public views along the access road from Mill Lane. 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.
17. Paragraph 138 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 parcel of land and the proposals would result in further built development into currently open land. It would therefore conflict with purpose c).
18. 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 proposal 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 proposal would be contrary to Policy PG3 of the CELPS.

Trees

19. A large number of trees lie within the site boundaries. The appellant has confirmed within the application form that there are trees / hedges on the proposed development site. The form stipulates that if confirmed yes, a full tree survey will need to be provided before the application can be determined. This should be in accordance with BS5837: Trees in relation to construction – Recommendations. The planning application was not supported by any tree report, and the appeal is not.
20. It is not clear as to the reasons why the Council did not request a tree survey prior to validating the planning application, and I have limited evidence that this was requested prior to determination. Nevertheless, a consultation took place with the Council's Arboricultural Officer at the time of the planning application. This advises that there is a fair amount of established moderate quality tree cover to the Mill Lane boundary but is not within influencing distance of the proposal. It identifies semi-mature Oaks to either side of the existing access but are not deemed to be of any arboricultural significance.
21. The topographical plan clearly shows where the bigger tree cover. Whilst the application form indicates that no trees will be removed, the proposed plans do not clearly indicate where tree cover and hedgerows are to be retained. There is no evidence in regard to protecting trees / hedgerows during construction works. Therefore, I have no substantive evidence including a proposed site plan or tree survey in relation to the position of trees on the site. In the absence of any evidence to the contrary I am unable to clearly establish how the site can be developed, having regard to the amenity values of trees, their contribution to the character of the area, landscape and the proximity to the building.
22. For the reasons given above, I conclude in the absence of insufficient evidence to demonstrate that the proposal would not cause significant harm to the amenity value of non-protected trees at the site. I cannot be certain that the proposed development would comply with Policies SE4 and SE5 of the CELPS and as such I must find it does not.
23. The proposal would also be in conflict with the Framework in conserving and enhancing the natural environment. Paragraph 180 advises that when determining applications, the following principles should be applied, if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Considerations

24. The appellant raises concerns with the Council relating to the application and pre-planning advice. I note the appellant's comments and frustration with responses from the Council, but I have given this limited weight. I have not been provided with any formal copies of pre-application advice, and it would seem that there have never been any existing plans or elevations provided prior to the collapse, and any measurements have been estimated from photos

and footings. As such, it appears to me that advice was given in accordance with the planning practice guidance¹ (PPG), and pre-application advice provided cannot pre-empt the democratic decision-making process or a particular outcome, in the event that a formal planning application is made. In any event, I have dealt with the appeal on the proposal I have before me.

25. The appellant's evidence relies heavily on the proposal is for the reinstatement of a longstanding barn that was within the site for a number of years. Although, there was a previous building on site, there are limited remains of the former building present, and I have no substantive evidence that it was a potential hazard. I acknowledge that the same bricks have been saved and piled up. However, as there is no building present, the proposals entail the construction of a new building in the Green Belt, and the exceptions do not define that re-instatement should justify new buildings for agriculture and forestry.
26. Moreover, even if I were to consider that it was a replacement of a building. Paragraph 149(d) of the Framework cannot be applied as there is no building² or baseline currently existing on site to be replaced. Based on the evidence before me, I therefore give limited weight to this matter.

Planning Balance and Conclusion

27. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal 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.
28. 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. Consequently, the very special circumstances necessary to justify the development do not exist.
29. 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.
30. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR

¹ Paragraph: 001 Reference ID: 20-001-20190315, Revision date: 15 03 2019; Paragraph: 003 Reference ID: 20-003-20140306, Revision date: 06 03 2014; Paragraph: 011 Reference ID: 20-011-20140306; Revision Date: 06 03 2014

² *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin)