



## Appeal Decision

Site Visit made on 16 November 2021

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 December 2021**

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**Appeal Ref: APP/R0660/W/21/3279765**

**Canalside Farm, Wood Lane East, Adlington SK10 4PH**

- 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 Ms Karina Boland against the decision of Cheshire East Council.
  - The application Ref 20/1620M, dated 19 April 2020, was refused by notice dated 8 July 2021.
  - The development proposed is described as 'change of use to open a petting farm and café, and a residential lodge under the caravan act 1968 legislation'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The name of the applicant is given as Mr Karina Boland on the application form, but the appellant's details are specified as Ms K Bolland on the appeal form. However, it has been confirmed in writing that Ms Karina Boland is the appellant. I have therefore used this name in the banner heading above.
3. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans, which were amended during the course of the planning application, and accompanying details that the residential lodge was removed from the proposal. The development proposed is therefore the change of use of land to a petting farm, including café and car parking. The Council dealt with the proposal on this basis and so shall I.
4. At the time of my site visit, it was also apparent that some development had taken place, including provision of a car parking area. A number of engineering operations and other structures, including pathways, a stable building, animal shelters, pens and fencing, which are not included in the plans, have also been erected. For the avoidance of doubt, my determination is based on the drawings submitted.

### Main Issues

5. The main issues are:
  - (i) Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework 2021 (the Framework) and development plan policy;
  - (ii) Whether the proposal would preserve or enhance the character or appearance of the Macclesfield Canal Conservation Area and the setting of Canal Bridge 18, which is a Grade II listed building.

- (iii) If the proposal would be inappropriate development, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify it.

## **Reasons**

### *Whether Inappropriate Development*

6. The appeal relates to a roughly linear shaped piece of land located between Middlewood Way, a wooded recreational route, and Macclesfield Canal. It also sits within the Green Belt and the Macclesfield Canal Conservation Area (MCCA), and adjacent to Canal Bridge 18 (CB18) which is a Grade II listed building.
7. Policy GC1 of the Macclesfield Borough Local Plan 2004 (the Local Plan) and Policy PG 3 of the Cheshire East Local Plan Strategy 2017 (LPS) state that within the Green Belt approval will not be given, except in very special circumstances, for the construction of new buildings unless it is for certain purposes and exceptions. These reflect to some extent those listed in paragraph 149 of the Framework.
8. Paragraph 149 b) of the Framework permits the provision of appropriate facilities (in connection with the existing use of the land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Although Local Plan Policy GC1 relates to 'essential' facilities for outdoor sport and recreation, the wording of LPS Policy PG 3 refers to 'appropriate' facilities for outdoor sport and outdoor recreation and is therefore consistent with the Framework. For the avoidance of doubt, the latter terminology is therefore applied in this appeal.
9. Paragraph 150 of the Framework also lists other forms of development that are not inappropriate development in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. Amongst other things, these include b) engineering operations and e) material changes in the use of the land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).
10. It is common ground between the main parties that the principle of the change of use of land to a petting farm, as a form of outdoor recreation, would not be an inappropriate use of land in the Green Belt. I have no reason to disagree.
11. The proposed café building would have a modest footprint with limited kitchen facilities and would be sited adjacent to the long car parking area, well within the proposed petting farm's grounds, which has a single point of entry. Moreover, whilst it would be visible from outside the site, an appropriately worded planning condition requiring that the café would only be used for purposes ancillary to the petting farm use, in particular for its visitors, would ensure that it would be an appropriate facility in connection with the change of use for outdoor recreation.
12. Nonetheless, the Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness.

13. Despite the proposed café comprising a detached timber building with an approximate 36 m<sup>2</sup> footprint, its form, bulk and massing would result in built development where there is presently none. Given these factors and its relatively exposed position adjacent to the car park, the proposed café would be visually prominent on the site and from Wood Lane East. It would therefore inevitably result in the reduction to the openness of this part of the Green Belt. Given its permanence and notwithstanding the intention of the appellant for the café to be limited to beverages and snacks, the proposed café would have a longer lasting and greater effect than a mobile catering unit or ice cream vending trailer on the site.
14. Furthermore, the provision of the car park for twenty five spaces has introduced a large exposed, bare, hard surfaced area that occupies the space along the frontage of the appeal site. This is readily apparent from Wood Lane East. When in use, parked cars would also occupy this expansive area during certain times of the day. The appellant argues that this area has historically been hardstanding and used for the parking of vehicles. However, photographs provided in the appeal statement show that this part of the site was previously accessed by a long single track with undeveloped grassland to either side. This extensive area of hardstanding, along with activity associated with the comings and goings of visitors and vehicle movements into and out of the car parking area would undermine the openness of the Green Belt further.
15. On my site visit, I also saw that a variety of paths and tracks across and within the site have been created; along with the fences, animal shelters and pens which, irrespective of whether or not they require planning permission, are integral to the use of the land as a petting farm and would reduce the Green Belt's openness.
16. Although vegetation and hedgerows around the edges of the site offer a degree of screening, there are places along the towpaths that border the site and on CB18 where views into and across the site are possible. It was also apparent on my site visit, that despite the distance between the site and the neighbouring properties on Wood Lane South, the site is readily apparent from some of these houses. The appellant has suggested conditions to control hours of operation of the car park and petting farm, landscaping, and use of an online booking system and travel plan. However, these would not be sufficient to overcome the harm that the proposal would cause to the openness of the Green Belt.
17. For the above reasons, given the failure to preserve the openness of the Green Belt in visual and spatial terms, it follows that the proposal would impact on the Green Belt purpose of safeguarding the countryside from encroachment as set out at paragraph 138 of the Framework.
18. Accordingly, the proposal does not fall within the exceptions at paragraphs 149 or 150 of the Framework. For these reasons, it would therefore represent inappropriate development that is, by definition, harmful to the Green Belt.

#### *Heritage Assets*

19. The terms of Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) make it clear that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of

preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the LBCA Act also requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

20. The Macclesfield Canal Conservation Area Appraisal and Management Proposals 2009 highlights the significance of this area as deriving from its architectural, historic and scenic interest. It lists a number of features that contribute to this special interest which include its significance as a surviving part of the last elements of the 19<sup>th</sup> Century canal network, and the architectural and historic interest of the area's historic buildings, many of which are Grade II listed. Canal features such as Millstone Grit bridges, canal-side trees and hedgerows and the changing setting of the canal as it progresses from urban to rural fringe are also put forward as features that justify its designation as a conservation area.
21. On my site visit, I saw that the area to the southern side of CB18, of which the appeal site forms a part, predominantly comprises open fields and agricultural land. Photographs provided within the appellant's evidence, and from local residents indicate that the site, prior to recent development, was predominantly grassed and of an open rural character. It would have therefore had more affinity with the adjoining open agricultural land. As a consequence, I consider that the appeal site would have formed a part of the rural fringe that positively contributes to the significance of the MCCA.
22. CB18 forms a single arched stone structure. Its significance derives in a large part from its materials, form and historical importance as a part of the wider canal infrastructure. Its significance is also clearly informed by its location in what is a predominantly rural setting. As the appeal site forms part of the surroundings in which this asset is experienced, it also falls within its setting, and would have positively contributed to it.
23. The Council has not found the proposed café building to have a harmful effect on the character or appearance of the MCCA or the setting of CB18 and I have no reason to disagree. I also appreciate that views of CB18 from the appeal site are limited due to the embankment. However, the extent of the hardstanding laid out for car parking has significantly eroded the open rurality of this part of the site. As such the rural character and the setting which these designated heritage assets benefit from, has been diminished so that the experience of the site is considerably more urban. Despite the bends in the road, this is particularly evident when approaching CB18 from the west as the existing trees and hedges that bound this part of Wood Lane East do not provide sufficient screening to prevent views into the site.
24. Although there is an existing car parking area close to the northern approach of CB18, this is associated with the marina, and is seen in the context of moorings and hard surfaced areas. Its surroundings are therefore not comparable to the appeal site which is appreciably more rural.
25. I am also mindful that there are a number of mature trees located along the boundary with Middlewood Way, close to the area where the proposed café would be positioned, and to areas of existing hardstanding that form the car park. However, there is little substantive evidence such as professional arboricultural advice to demonstrate that these trees would be or have been adequately protected during or after construction. In the absence of any

compelling evidence to the contrary, I cannot be certain that the proposed construction and existing development would not harm the future health of these trees, and thereby cause further harm to the MCCA.

26. There is no firm evidence before me to demonstrate that the introduction of planters, additional landscaping or interpretative boards would negate this harm. As a consequence of all of these factors, the development would fail to preserve or enhance the character or appearance of the MCCA and the setting of Grade II listed CB18.
27. The harm that I have identified above is, 'less than substantial' for both designated heritage assets. Paragraphs 199 and 200 of the Framework explain that great weight should be given to the conservation of a designated heritage asset, and any harm requires clear and convincing justification. In paragraph 202 of the Framework, it goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset that this harm should be weighed against the proposal's public benefits.
28. The appellant aspires to use the site and the animals to support educational and therapeutic aims, and to provide managed school visits and potential apprenticeships to enhance awareness and knowledge of animal husbandry. I have also been made aware of the mental health and wellbeing benefits associated with interaction with horses and other animals, particularly for people with educational and behavioural issues. However, the appellant has put forward that the development is largely a result of people passing the site and requesting access to see the animals. There is also little supporting evidence from any educational, social or medical organisations to substantiate the needs of the wider community. As such, this limits the weight that I can afford to these public benefits.
29. Therefore, although the harm caused by the proposal would be less than substantial, it would nonetheless be significant, and any harm caused to a designated heritage asset is a matter that attracts considerable weight and importance. With that in mind, I find that the limited public benefits involved do not outweigh the harm that would be caused to the significance and setting of the heritage assets.
30. The development thereby conflicts with LPS Policies SE 1, SD 2, SE 5 and SE 7, which seek to ensure that, amongst other matters, development is of a high standard of design that reflects local character including trees, and respects and enhances the significance of heritage assets, including their settings.

#### *Other Considerations*

31. The educational, therapeutic, mental health and wellbeing benefits associated with interaction with horses and other animals are acknowledged. However, for the reasons previously noted, I consider these benefits to be limited and are accordingly attributed limited weight in the overall Green Belt balance.
32. The appellant has confirmed that the site has operated as a smallholding for a number of years and that animals will continue to be kept at the site. However, it is not within my remit to determine whether the existing stable building is lawful, or if the paddocks and shelters are permitted development within the context of this appeal. This would consequently not be afforded any positive weight in favour of the scheme.

33. It has also been highlighted that there is scope for the site to be operated without control under the provisions of Part 4 of Schedule 2 of The Town & Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Nonetheless, this part of the GPDO relates to temporary buildings and the temporary use of land. Given the limited amount of days in any calendar year that the land may be permitted to be used, it would not be more harmful than the proposed scheme for which full planning permission is sought. As such, this limits the weight that I can afford to it as a fallback position. Furthermore, in my view, it would not be appropriate to grant a temporary permission given the permanence of the proposed café building and the works that have been carried out.
34. The appellant considers that some issues raised by local residents are not material considerations, being covered by other regulatory regimes. I have also been made aware of public support for the proposal on social media. Nonetheless, the level of support or objection are not determining factors in the consideration of an appeal. I have also had regard to the letter from a veterinary practice which raises no concerns about the suitability of the site to accommodate the animals kept there. In addition, the appellant has brought my attention to the lack of objection from consultees, including the Conservation Officer during the processing of the planning application. Nonetheless, the absence of harm in these respects would be neutral in the overall Green Belt balance.
35. I have also been referred to the Council's approach in accepting the use of land for car boot sales with catering units across the borough as being similar to that of the appeal scheme. However, no detailed examples of this approach are before me and it is not possible to be certain that they are directly comparable. I therefore attribute no weight to this.
36. The appellant is dissatisfied with the Council's failure to communicate during the processing of the planning application, along with frustrations in respect of the Council's management of on street parking and control of other buildings on nearby allotments and in this part of the Green Belt. Incidences of trespass, illegal photography of persons on the site and low level overflying of drones have also been brought to my attention. However, these matters do not have any weight in my considerations.

## **Conclusion**

37. I have identified that the proposal would be inappropriate development in the Green Belt as defined by the Framework. The Framework establishes that substantial weight should be given to any harm in the Green Belt. It also would fail to preserve the character or appearance of the MCCA and the setting of the Grade II listed CB18. Although the harm to these heritage assets is less than substantial, as noted above, there are no public benefits which would outweigh that harm. As such, even when taken together, the other considerations reviewed above do not clearly outweigh the harm that the proposal would cause. Consequently, the very special circumstances required to justify the development have not been demonstrated. As a result, the proposal would conflict with Local Plan Policy GC1 and LPS Policy PG 3 as set out above, and with Section 13 of the Framework which seeks to protect Green Belt land.

38. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be dismissed.

*Mark Caine*

INSPECTOR