



Appeal Decision

Site visit made on 4 May 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2022

Appeal Ref: APP/R0660/W/22/3290777

1 Piggotts Hall, Congleton Lane, Lower Withington SK11 9LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Mark Sheppard (of The Mark Sheppard Bare Trust 2017) against Cheshire East Council.
 - The application Ref 21/2796M is dated 19 May 2021.
 - The development proposed is the demolition of 2 no storage buildings, change of use of land to residential and construction of swimming pool and subterranean plant room.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of 2 no storage buildings, change of use of land to residential and construction of swimming pool and subterranean plant room at 1 Piggotts Hall, Congleton Lane, Lower Withington SK11 9LD in accordance with the terms of the application, Ref 21/2796M, dated 19 May 2021, subject to the conditions set out at the end of this decision.

Preliminary Matters

2. This appeal follows the failure of the Council to determine the planning application within the prescribed period. Had it been able to determine the application the Council has indicated that the application would have been refused.
3. I note the conclusion set out in the Council's statement of case. While this is not the application decision, as jurisdiction over that was taken away when the appeal was lodged, I have treated it as the decision the Council would have made, had it been empowered to do so.

Main Issues

4. The main issues in this case are therefore:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and, the effect of the proposal on the openness of the Green Belt.

Reasons

Whether Inappropriate Development

5. Paragraph 147 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except

in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

6. Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include appropriate facilities for outdoor recreation, so long as openness and the purposes of including land within the Green Belt are not harmed. Policy PG3 of the Cheshire East Local Plan: Local Plan Strategy 2010-2030 (the LPS, July 2017) primarily restates the requirements of the Framework with particular reference to the exception for appropriate facilities for outdoor recreation, and therefore as far as it is relevant to this appeal, I attach this policy full weight.
7. The appeal site covers a large area of land that I understand to be primarily within the agreed residential curtilage of No 1 Piggots Hall. The exceptions to this are the field between Piggots Hall and Congleton Lane, and the two barns and wooded area adjacent to the farm track. I understand these areas and barns are agricultural.
8. The proposal would provide a single-lane pool for swimming, a small plant room to service the pool itself and an area of associated land adjacent to it. The pool has clearly been designed to facilitate the proposed use, which is training for long distance swimming, and I find that its scale is as a result of this. As pools will typically require some servicing, such as cleaning or heating, to stay useable it is clear that the plant room is also directly related to the use of the pool. Moreover, I find that the adjacent land affected by the change of use would allow for individuals to pass the pool and allow either end to be reached at a distance safe from falling in. As such I find that the pool, plant room and associated land would provide appropriate facilities for an outdoor recreational use.
9. The proposed pool and plant room would, by way of being a building, have both a spatial and visual presence that would affect the openness of the Green Belt. However, given the small scale of this building, that it would be level with the ground and sited amongst planting, including a hedgerow, I find that this impact would be very limited. Moreover, the close siting to an existing residential use would mean that the proposed change of use would be read in relation to this and not the wider open countryside surrounding the site. As such the use of the proposed residential area, including any formal planting or residential paraphernalia, would have only a very modest effect on openness in a visual sense.
10. As noted above, the proposal would also result in the demolition of two barns. These, by way of their height and massing, form a more significant impact on the openness of the Green Belt with regard to both spatial and visual aspects. Therefore, given the above and the relatively limited scale of the proposal, with regard to both the appeal site and the Green Belt as a whole, there would be no unacceptable effect on the openness of the Green Belt and the proposal would not conflict with any of the five purposes of including land within the Green Belt.

11. Even if I were to consider the associated land proposed for a change of use to not be directly relevant to the outdoor facilities, Paragraph 150(e) allows for material changes in the use of land, subject to the development preserving openness and the purposes of including land within the Green Belt. Given my assessment above, I would still have found that the change of use complied with these requirements.
12. In conclusion, I have found that the proposed development would provide appropriate facilities for outdoor recreation and that it would not harm the openness of the Green Belt or the purposes of including land within it. As such the proposal would not be inappropriate development within the Green Belt and would comply with Policy DS18 as outlined above, as well as with the Framework, including Paragraphs 147 to 150.

Conditions

13. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the National Planning Policy Framework and the Planning Practice Guidance. In the interests of clarity and enforceability I have made some changes to the wording.
14. For certainty I have set out the timescale for the commencement of works. A condition is also necessary for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
15. Although details of the proposed planting are shown on the submitted documents, these are relatively limited, and the landscaping will be important for mitigating the removed trees and softening the appearance of the development within the Green Belt. Therefore, it is necessary to impose conditions requiring further details and the implementation of the landscaping plan.
16. Given the volume of water which would be held by the pool, I find there would be a risk of overburdening the local drainage systems if released inappropriately. Although the pool is only likely to be drained rarely, this risk would still exist and so it would be necessary to impose a condition requiring that any drainage events are agreed with the appropriate body.

Conclusion

17. For the reasons given above I conclude that the appeal should be allowed.

Samuel Watson

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 drawings numbered: 1434-SP-L01 Rev A, 1434-SP-P01 Rev A

- 3) Prior to the development hereby permitted being first brought in to use, a scheme for the landscaping of the site shall be submitted to, and approved in writing by, the Local Planning Authority. The landscaping scheme shall include; (i) a planting plan with specifications of species, size, numbers, densities and a plan for their implementation and establishment; and, (ii) details of hard landscaping.
- 4) The landscaping plan shall be implemented in full accordance with the approved scheme within the first planting season following completion of the proposed development hereby permitted, unless otherwise agreed by the Local Planning Authority. Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging planting of a similar size and species to those originally required to be planted.
- 5) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority within 5 days of the find. Prior to further works being carried out in the identified area, an assessment shall be made, and appropriate remediation shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed details.
- 6) Prior to emptying the swimming pool contents, the approach in terms of rates, volumes and timings for emptying shall be agreed with the public sewage undertaker in writing. This requirement shall relate to each and every event.