



Appeal Decisions

Site visit made on 6 March 2023

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal A Ref: APP/A0665/C/22/3303633

Land at Catton Hall Farm, Bradley Lane, Frodsham, Cheshire WA6 7EX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Marin Mann against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 14 June 2022.
- The breach of planning control as alleged in the notice is the siting of a menage.
- The requirements of the notice are to: Remove the menage, floodlights and associated materials from the Land.
- The period for compliance with the requirement is: 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/A0665/C/22/3303634

Land at Catton Hall Farm, Bradley Lane, Frodsham, Cheshire WA6 7EX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Theresa Mann against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 14 June 2022.
- The breach of planning control as alleged in the notice is the siting of a menage.
- The requirements of the notice are to: Remove the menage, floodlights and associated materials from the Land.
- The period for compliance with the requirement is: 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal C Ref: APP/A0665/W/22/3303697

Catton Hall Farm, Bradley Lane, Frodsham WA6 7EX

- 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 Martin Mann against the decision of Cheshire West and Chester Council.
- The application Ref 22/00497/FUL, dated 2 February 2022, was refused by notice dated 31 May 2022.
- The development proposed is an extension to menage.

Summary of Decision: The appeal is allowed.

Preliminary Matter

1. Despite the slight differences between the descriptions of the addresses and development in Appeals A and B and Appeal C, the site and development the subject of all three appeals is the same.
2. The description of the development on the planning application form pertaining to Appeal C describes the development as 'an extension to menage'. Whilst there was previously a smaller menage on a similar site to the existing, aerial photographs indicate it had a different orientation. Accordingly, I do not consider the existing to be an extension, but rather a new menage. A more accurate description would be 'the siting of a menage', which I have used in my formal decisions. I am satisfied this would not cause injustice to any parties.

Appeals A and B - The ground (a) appeal and the deemed planning application; and Appeal C

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to relevant development plan and national planning policies, taking into account the effect on the openness of the Green Belt and the purposes of including land within it; and
 - the effect of the development on the character and appearance of the area.

Reasons

Inappropriateness

4. The appeal property is located within the Green Belt. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. Paragraphs 149 and 150 of the Framework list a number of exceptions to this. This is supported by Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies 2015 (LP1), which states that restrictions to development in the Green Belt will be in line with the Framework.
5. Exception (b) set out in paragraph 149 of the Framework allows appropriate facilities (in connection with the existing use of 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. There is no dispute between the parties that the development is in connection with the existing equine livery business and therefore is connected to an existing outdoor recreation use. As such, it satisfies the first limb of exception (b). It is the second limb 'as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it', which is the disputed matter.
6. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open.

Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.

7. The Council's objection to the development appears to be that its size is excessive for what would ordinarily be considered acceptable. However, there is no evidence before me that there is any policy requirement, locally or nationally, that there must be justification for the size of the development. Exception (b) simply requires the development is in connection with the existing use of land, which the Council does not dispute that it is, and that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Whether there is justification for the size of the menage has no bearing on whether it would harm the openness of the Green Belt, ie a 40m x 40m menage would have the same effect on openness whether there is justification for it or not.
8. The menage is approximately 40m x 40m and comprises a post and rail boundary with a mixed material base consisting of what appears to be a mix of sand and recycled fabric. There are six floodlights around the perimeter of the menage.
9. The menage lies adjacent to a complex of buildings comprising both residential and commercial uses. Due to the topography of the surrounding area and the adjacent buildings, the menage would only be readily visible from the east, from which it would be read against the backdrop of the existing buildings. The post and rail perimeter fencing are similar in height and design to other fencing used in the adjacent paddocks and fields, assisting in it assimilating into the landscape.
10. Whilst the floodlights are higher and would therefore be clearly visible when in use during night-time hours, they would only be readily visible against the backdrop of the existing building complex and therefore would not appear visually intrusive.
11. Therefore, in respect of the visual dimension of the openness of the Green Belt, I do not find that the development represents a visual intrusion.
12. In respect of the spatial dimension of openness, the menage has extended into what was previously undeveloped open fields. However, the only part of the development that extends above ground level is the fence and floodlights. The fence assists in assimilating the menage with the surrounding fields and paddocks and the floodlights are similarly lightweight and slender. Furthermore, the lightweight construction of the perimeter fence enables visual permeability through the menage. Consequently, I find that the menage does not erode the openness of the Green Belt and therefore preserves it.
13. With regard to the purposes of including land within the Green Belt, whilst it does extend into an adjacent field, due to its lightweight construction and the existing equine activities that take place within the adjacent field, I do not consider that it amounts to an encroachment into the countryside. Therefore, I find that it does not conflict with any of the purposes of including land within the Green Belt, as set out in paragraph 138 of the Framework.
14. I find therefore that the proposal satisfies the requirements of exception (b) of paragraph 149 of the Framework. Consequently, the development is not

inappropriate development in the Green Belt. As such, it complies with Policy STRAT 9 of LP1.

Character and Appearance

15. The appeal site lies within an area comprising open, verdant fields interspersed with sporadic dwellings and farmsteads. The building complex which the menage forms part of is generally well contained within a ed cluster of buildings surrounded by open fields, which respects the open character of the area.
16. As I have already found above, the development is largely screened from surrounding views and within those in which it would be visible it would be read against the backdrop of the adjacent building complex and the topography of the area. Furthermore, it would be clearly read as an equine facility in association with the existing equine facilities and activities within the wider site. Whilst it has extended into what was otherwise an undeveloped, open field, due to its lightweight construction and similar equine use, it does not unduly erode the open character of the area.
17. I find therefore that the development does not harm the character and appearance of the area. As such, it complies with Policies STRAT 9 and ENV 6 of the LP1 and DM 3 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies 2019 (LP2), which, amongst other things, seek to ensure development respects the character and appearance of the area.

Conditions

18. I have considered the imposition of appropriate planning conditions, having regard to the six tests set out in the Framework. The Council have suggested, in the event I allow the appeals, a condition to be imposed preventing the installation of any further external lighting. In the interests of protecting the character and appearance of the area, I consider that such a condition is necessary.

Conclusion

19. For the reasons given above, having considered the development plan as a whole and all material considerations, Appeals A and B should succeed on ground (a) and planning permission will be granted for the development described in the notice, subject to conditions set out in the formal decision. The enforcement notice will be quashed. For the same reasons, I conclude Appeal C should be allowed and planning permission granted subject to the condition set out in the formal decision.

Formal Decisions

Appeals A and B

20. The appeals are allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the siting of a menage on land at Catton Hall Farm, Bradley Lane, Frodsham, Cheshire WA6 7EX as shown on the plan attached to the notice and subject to the following condition:

- 1) No additional external lighting shall be installed unless details have first been submitted to and approved in writing by the Local Planning Authority. Lighting shall then only be installed and operated in accordance with the approved details.

Appeal C

21. The appeal is allowed and planning permission is granted for the siting of a menage on land at Catton Hall Farm, Bradley Lane, Frodsham WA6 7EX in accordance with the terms of the application, Ref 22/00497/FUL, dated 2 February 2022 subject to the following condition:

- 1) No additional external lighting shall be installed unless details have first been submitted to and approved in writing by the Local Planning Authority. Lighting shall then only be installed and operated in accordance with the approved details.

Alexander Walker

INSPECTOR