



Appeal Decision

Site visit made on 14 June 2023

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2023

Appeal Ref: APP/R0660/W/22/3301909

Lindowmoor, Moor Lane, Wilmslow, Cheshire

- 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 Damian Riley Dog Training Ltd against the decision of Cheshire East Council.
 - The application Ref 21/0040M, dated 5 January 2021, was refused by notice dated 6 January 2022.
 - The development proposed is described on the application form as 'formation of a driveway to accommodate wheeled vehicles moving between the grazing paddocks on the application site'.
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Decision

1. The appeal is allowed and planning permission is granted for a track to accommodate wheeled vehicles moving between paddocks on the application site at Lindowmoor, Moor Lane, Wilmslow, in accordance with the terms of the application, Ref 21/0040M, dated 5 January 2021 and drawing 13119-PL2000 rev A received by the local planning authority on 23 September 2021, subject to the following condition:
 - 1) The track hereby approved shall be used for the manoeuvring of vehicles only and shall not be used for the parking of vehicles.

Preliminary Matters

2. The track is already in place, so I have treated the proposal as being retrospective.
3. The Council's decision notice and appellant's appeal form describe the development as a 'farm track', whereas 'driveway' is used on the application form. A driveway implies a more urban form of development, and I agree that 'track' is a more appropriate description. I have therefore used that term in the decision above, but have omitted the word 'farm', as that is not applicable here.
4. Since making its decision on the application, the Council has adopted the Site Allocations and Development Policies Document 2022 (SADPD). Policies in the SADPD have replaced those in the Macclesfield Local Plan 2004 (MLP), including Policy DC8, which is referred to in the decision notice.
5. The appellant has made no comment on the effect of the change in policy context, but the Council has indicated that the adoption of the SADPD does not have any implications for determining the appeal, or alter the decision that it

came to. Having reviewed the SADPD policies which the Council considers to be relevant to the proposal, I am satisfied that the change in policy context does not prejudice the case of either party in this appeal.

6. The appellant has suggested that, as it serves agricultural land, the track would benefit from permitted development rights under Part 6, Class B of the General Permitted Development Order. However, whilst the track serves a holding of less than 5 hectares, the permitted development right for the provision of a private way applies where the development is reasonably necessary for the purposes of agriculture, within an agricultural unit.
7. In this case, it appears that the primary use of both the track and the wider site is for dog training, with any agricultural use, such as sheep grazing, being largely ancillary. Given this situation, uncertainty exists as to whether the suggested permitted development right would apply. I have therefore given little weight to the suggested fall-back position.

Main Issues

8. The main issues are:

- Whether the proposal is inappropriate development in the Green Belt, including its effect on openness; and
- the effect of the proposal on the character and appearance of the area.

Reasons

Whether inappropriate development

9. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. This approach is reiterated in Policy PG3 of the Cheshire East Local Plan Strategy 2017 (Local Plan).
10. Framework paragraph 150b) and Local Plan Policy PG3 both confirm that engineering operations are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it.
11. The crushed stone track which has been constructed at the appeal site is around 103m in length by 3.7m wide. The track follows the edge of two of the appellant's three paddocks, and is not noticeably raised above the level of the ground on either side. As it is broadly flat, it does not impact on openness.
12. There are fences on either side of the track, but one side is an existing field boundary, so it is likely that there was already a fence in place. A new post and wire fence has been erected along the other side of the track, but this is not a solid feature and does not restrict views of the grass paddock beyond.
13. Construction of the track has resulted in a hard surface where there was previously grass, but Green Belt policy provides for engineering operations, which implies that such a change is acceptable.

14. In itself, the track does not harm openness, but according to interested parties, it has been used for parking vehicles in association with the appellant's dog training business. Although the track was not being used in this way at the time of my visit, it was clear that any vehicles parked on the track would be visible from Moor Lane. The effect would be temporary, but the presence of parked vehicles would detract from openness. To avoid such harm, use of the track for parking could be controlled by a suitable condition.
15. The appeal development does not result in encroachment of built form into the countryside as the land remains open. I note comments that there are containers in place on the top field which the track provides access to, but according to the Council they do not have planning permission. The containers do not form part of the appeal proposal, and could be subject to separate enforcement investigation.
16. Subject to controls over parking, the development therefore preserves the openness of the Green Belt, and does not conflict with the purposes of including land within it. As such, it is not inappropriate development. Consequently, there is no conflict with either Local Plan Policy PG3 or Section 13 of the Framework, both of which are concerned with the protection of Green Belt land.
17. As the development is not inappropriate, there is no need to demonstrate very special circumstances to justify it.

Character and appearance

18. The light-coloured track is clearly visible from within the site itself, and may be seen from nearby properties, but mature trees and topography restrict views from most public vantage points. The track is visible from Moor Lane, but the curvature of the road, together with boundary vegetation, means that it is only seen in fleeting views, mainly limited to the entrance of the dog training facility. From here, the track is seen as an extension to the parking area, which has been surfaced with a similar material.
19. When viewed from both Moor Lane and from within the site, the track does not read as a particularly long feature, terminating at the gate leading into the upper field. The track has been constructed on the lower lying land and as the land rises, the green character of the top field is still clearly evident. The restricted length of the track helps to limit its visual impact.
20. Furthermore, whilst it can be seen from certain vantage points, the presence of a stone access track is not particularly uncommon or unexpected in a rural area. I could see when I visited that the appearance of the track is starting to mellow, as the stones become embedded, and grass and other vegetation have started to grow through in places. Over time, the visual impact of the track will continue to soften.
21. I note the Council's comments that agricultural and dog training uses go on across the country without the need for engineered tracks such as this, but the appellant has explained that the lower fields get waterlogged at times, and the drainage situation has worsened in recent years. Various explanations have been provided for this change, including the effect of nearby peat extraction works and new development nearby. I am not in a position to comment on the effect that those activities may or may not have had on the drainage of the

appeal site itself. However, the land across which the track passes is certainly lower lying than the top paddock, and I can appreciate that, if waterlogged as shown on pictures provided, it would be very difficult to carry on dog training activities on those fields.

22. The track provides access to the higher land on the top field by vehicles, allowing movement of equipment. In this way, the track supports the dog training business, enabling continuity during periods of bad weather. This is important both for the successful training of dogs, and to ensure a reliable income for the business.
23. Overall, I find that the effect of the appeal proposal on the character and appearance of the area is minimal, with any small amount of harm being outweighed by the benefits to the business.
24. I have identified no clear conflict with the sustainable development and design principles set out in Local Plan Policy SD2 and SADPD Policy GEN1, or the measures to protect the landscape contained in Policy SE4 of the Local Plan and SADPD Policy ENV3. As it protects the sense of place, the proposal is consistent with Local Plan Policy SE1, and by helping sustain the existing business, the proposal contributes to a strong and competitive economy, as sought by Local Plan Policy SD1.

Other Matters

25. Concerns have been raised about the potential expansion of the existing business, and the potential for increased noise and disturbance to neighbouring occupiers. However, the appeal proposal is only concerned with the track. No change is proposed to the existing operation, which is controlled by existing planning conditions. The Council has powers to address other, unauthorised uses of the site, if any planning breach is found. Potential future development, including for residential purposes, would require separate planning permission.
26. There is much discussion in the submitted documents about drainage and hydrology, but I have been provided with no evidence to support the claim that construction of the track has adversely affected the drainage of adjacent land.

Conditions

27. The development has already taken place, but in the interests of certainty, I have referred to the approved drawing in the decision. As it has already been constructed, the suggested condition specifying materials is not necessary.
28. To preserve the openness of the Green Belt and safeguard the character and appearance of the site, I have imposed a condition restricting use of the track for parking of vehicles.
29. The track is close to a number of immature trees in the adjacent paddock. Most of the trees appeared to be healthy when I visited, but construction of the track could have adversely affected their roots. However, as the track has already been made, the suggested pre-commencement condition relating to the protection of off-site trees during construction is not necessary.

Conclusion

30. The track does not constitute inappropriate development in the Green Belt and the effect on the character and appearance of the area is minimal. The development accords with the development plan and the Framework. Subject to the condition, the appeal is therefore allowed.

R Morgan

INSPECTOR