



Appeal Decision

Site visit made on 14 February 2024

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/C3430/W/23/3321574

Doveleys Farm, Sandy Lane, Hatherton, Staffordshire WS11 1RW

- 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 Philip Hammonds against the decision of South Staffordshire Council.
 - The application Ref is 22/00800/FUL.
 - The development proposed is alterations to existing vehicular access and provision of access drive off Hatton Road/Sandy Lane junction.
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Decision

1. The appeal is allowed and planning permission is granted for alterations to existing vehicular access and provision of access drive off Hatton Road/Sandy Lane junction at Doveleys Farm, Sandy Lane, Hatherton, Staffordshire WS11 1RW in accordance with the terms of the application, Ref 22/00800/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 812-22-02 (Location Plan) and 812-22-05 Rev A (Proposed Access Plan).
 - 2) Within three months of the date of this decision a hard and soft landscaping scheme to include the surface treatment of the access drive and biodiversity enhancements shall be submitted to and approved in writing by the Local Planning Authority. The approved hard and soft landscaping shall be implemented within the planting season following approval of the landscaping scheme. Any trees, hedges or shrubs identified within the approved landscaping scheme which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted shall be replaced in the next planting season with others of similar size and species.

Preliminary Matters

2. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. Other than the paragraph numbers, the provisions in the revised Framework relating to 'Proposals affecting the Green Belt' are the same as those that were in the previous version of the Framework when the council made its decision. Therefore, having considered the parties' respective cases and the nature of the revisions, in light of the principles of natural justice it has not been necessary to seek the views of the main parties on this matter. I have referred to the updated paragraph numbers.

3. The alterations to vehicular access at the Hatton Road/Sandy Lane junction and the access drive have already been constructed. I am therefore considering this appeal retrospectively.
4. Land either side of the access drive is outside the submitted red edge plan and therefore does not form part of the application. On that basis, irrespective of the submitted Statutory Declaration, the lawful use of land outside land edged red is not a matter for me to consider within the context of this appeal. It is open for the Council to address potential unauthorised development elsewhere in legislation, or for the appellants to apply for a determination under sections 191/192 of the Town and Country Planning Act 1990 (the Act) to determine this matter, and any such action or application would be unaffected by my determination of this appeal.

Main Issues

5. The main issues are:
 - Whether the development constitutes inappropriate development in the Green Belt having regard to the Framework, and any relevant development plan policies, including its effects on the openness of the Green Belt; and,
 - If the development is inappropriate, whether any harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development in the Green Belt

6. The appeal site comprises a gravel access track of considerable length bound by a timber post and rail fence to each side. At its junction with Hatton Road, it is widened and laid to concrete with a grass verge either side and includes a timber gate set back from the road. The track leads to the appeal property, Doveleys Farm. The site lies within the Green Belt.
7. Policy GB1 of the South Staffordshire Core Strategy 2012 (CS) states that development in the Green Belt will normally be permitted for the carrying out of engineering or other operations, or the making of a material change of use of land, where the works or use proposed would have no material effect on the openness of the Green Belt, or the fulfilment of its purpose. This is broadly consistent with the provisions of the Framework which identifies at paragraph 142 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 and permanence.
8. It is put to me by the appellant that there has always been a field gate in the location of the current access to Hatton Road and that the access track only constitutes engineering works. Nevertheless, the track is used to access a dwelling. From the evidence before me, the land upon which the track is located was previously grass and it is not disputed that the land was used for equestrian purposes. Therefore, the development within the annexed part of the site used for vehicular access, i.e. the red edge, involves both engineering works and a change of use of land for domestic purposes. Consequently, both

exceptions set out under Paragraphs 155(b) and (e) of the Framework are relevant and require an assessment of openness.

9. Openness is an essential characteristic of the Green Belt. Several factors are capable of being relevant when it comes to assessing openness to the particular facts of a specific case and are a matter of planning judgement. Planning Practice Guidance¹ (PPG) confirms that openness is capable of having both spatial and visual aspects and other matters can be taken into account such as the duration and remediability of the development as well as the degree of activity likely to be generated by the development.
10. In this instance, the laying of the driveway and the erection of gates and fences introduces development where none was previously present. Even if the gates and fences could be erected as permitted development, the track and the domestic-related traffic passing along it, albeit negligible in nature, inevitably has an impact on the spatial aspect of the openness of this part of the Green Belt. However, due to its surface material and surrounding mixed use context, particularly as the adjacent land is used for grazing horses rather than as cultivated domestic land, the level of spatial harm is limited.
11. In visual terms, there would be some impact owing to the prominence of the access onto Hatton Road and the width and length of the track across the field. However, the site is partially screened to the north and south by vegetation and trees. Moreover, I saw at my site visit that the site is located at the interface between the countryside and the built-up edge of Cannock where there are several residential properties, driveways and equestrian buildings. In this regard, the development is readily assimilated into its surroundings and there is negligible visual effect of the development overall in this part of the Green Belt landscape.
12. Notwithstanding the above, the construction of the drive represents a change to the land from its previous form, albeit visually tempered by its surroundings. Furthermore, the annexing of the land as an access track for domestic purposes represents an urbanising form of encroachment into the countryside. The development causes a minor harmful effect but nonetheless it conflicts with the purpose of Green Belt set out at paragraph 143 (c) of the Framework, that is to assist in safeguarding the countryside from encroachment.
13. For the reasons given above, the development has an adverse effect, albeit limited, on the openness of the Green Belt and does not meet the exceptions set out in Paragraphs 155(b) and (e) of the Framework. The development therefore constitutes inappropriate development in the Green Belt. In addition, the development conflicts with a fundamental aim of the Framework to safeguard the countryside from encroachment.

Other considerations

14. The development provides a direct route to Doveleys Farm which is clearly beneficial to its occupiers as it provides a separate access to the dwelling as an alternative to the existing shared access with the adjacent equestrian business.
15. It has been put to me by the appellant that although a separate vehicular access close to the appeal property had already been provided along Sandy

¹ Paragraph: 001 Reference ID: 64-001-20190722

Lane by virtue of a Certificate of Lawful Development² (CLD), this access had poor visibility along Sandy Lane, was therefore closed and an alternative access created in the appeal location. My observations confirmed that the previous vehicular access shown in the submissions for the CLD was now blocked by a brick wall and used solely for pedestrian use.

16. The replacement vehicular access subject to this appeal is located on the outer curve of a bend where Sandy Lane changes road name to Hatton Road and is subject to a 30mph speed limit. An Access Assessment dated August 2022 (Sumner Consultancy Ltd) has been submitted by the appellant which demonstrates that the appeal access meets the required visibility splays set out in Manual for Streets³ (MfS). I note the Highway Authority have raised no objection to the access and there is no evidence before me to lead me to a different conclusion in this regard.
17. I saw at my site visit that Sandy Lane is a narrow and winding rural road with no footway and is enclosed along much of its length by high hedgerows. Nevertheless, there are several vehicular access points and properties along it, thus drivers of vehicles travelling along Sandy Lane in the vicinity of the appeal property would be aware of the potential for vehicles exiting onto the road and would be likely to be driving much slower than the national speed limit of 60mph.
18. Even if the now closed CLD access had visibility splays less than recommended in MfS, it is not necessarily a reason in itself to justify the appeal development, having particular regard to the length of the track and any potential alternatives. However, on the basis of the information before me and my site visit, the appeal access would be measurably safer in vehicular and pedestrian highway safety terms as suggested by the appellant, the Highway Authority and several third parties. Furthermore, any alternative vehicular access to the appeal property from Sandy Lane would undoubtedly result in the removal of vegetation and the depletion of the rural character of the road which would also be harmful to the Green Belt.
19. I conclude that the better overall visibility available at the appeal access junction offers highway and pedestrian safety improvements. I therefore afford considerable weight to the highway benefits of the development in this case.

Green Belt Balance

20. The development constitutes inappropriate development in the Green Belt. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There is also limited harm arising from the loss of openness, and from being contrary to the purposes of including land within the Green Belt. Paragraph 153 advises 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.
21. The Council identify in their Officer Report that the development does not harm the character and appearance of the area and there is no substantive evidence before me to disagree. However, that is neutral in the balance.

² LPA Ref: 19/00007/LUE

³ Chartered Institute of Highways and Transport: Manual for Streets 2, 2010, Section 10

22. Against the Green Belt harm I have identified must be weighed the benefits of the development. The highway benefits weigh considerably in favour of granting permission for the access track subject to this appeal. Additionally, whilst the track would be located at the site for a number of years, it is reversible and capable of being removed from the site. In my judgement, on the evidence before me, this benefit is sufficient to outweigh the harm I have found to the Green Belt in this case. Consequently, I find that harm would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development and the development does not conflict with Policy GB1 of the CS or the Framework.

Conditions

23. I have considered the suggested conditions from the Council and had regard to the Framework and the PPG in terms of the use of planning conditions. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity.
24. The plans condition is necessary for the avoidance of doubt and to specify the plans to which the permission relates in the interests of the character and appearance of the area. In the interests of biodiversity, a condition regarding the implementation and retention of hard and soft landscaping is necessary.
25. I have not imposed the Council's suggested condition relating to the removal of permitted development rights. The PPG advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Due to the limited extent of the red edge, which is confined to the access track only, there is no evidence before me that exceptional circumstances exist that would justify the removal of permitted development rights in relation to the erection of buildings or boundary treatment in this case. Accordingly, I do not consider that this condition is necessary in order to make the development acceptable in planning terms.

Conclusion

26. Although the development results in harm to the Green Belt by reason of inappropriateness and effect on openness and Green Belt purpose, which carries substantial weight, I consider the other considerations in this case clearly outweigh that harm.
27. Consequently, the development complies with the relevant provisions of the Framework and the development plan when considered as a whole. The appeal should therefore be allowed.

A Veevers

INSPECTOR