



Appeal Decision

Site visit made on 19 June 2024

by A Veevers BA(Hons) PGDipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/R0660/W/23/3328208

Mill Farm, Moss Lane, Sink Moss, High Legh WA16 0RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by John Shaw, John Shaw Equestrian, against the decision of Cheshire East Council.
 - The application Ref is 21/5690M.
 - The development proposed is outdoor riding area, conversion of existing storage barn to stabling and new timber stable building.
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Decision

1. The appeal is allowed and planning permission is granted for outdoor riding area, conversion of existing storage barn to stabling and new timber stable building at Mill Farm, Moss Lane, Sink Moss, High Legh WA16 0RF in accordance with the terms of the application, Ref 21/5690M, and the plans submitted with it, subject to the conditions within the attached schedule.

Preliminary Matters

2. Views of the main parties were sought on the plans considered by the Council, as it was unclear from the appeal submissions. The matter has been clarified and I have proceeded on the basis of the plans listed by the Council in their email dated 8 May 2024, which was also provided to the appellant.
3. At the time of my site visit I saw that the development as described above had been partially carried out insofar as works to convert the storage barn to stables and outdoor riding area had taken place. However, I noted a number of discrepancies between some of the works on site when compared to the submitted plans. As I cannot be certain that the works that have taken place thus far are fully in accordance with the submitted plans, and other elements of the proposal have not yet commenced, for the avoidance of doubt, I have considered the appeal on the basis of the submitted plans.
4. A new version of the National Planning Policy Framework (the Framework) was published in December 2023. However, as the Framework's policy content insofar as it relates to the main issues has not been significantly changed, albeit paragraph numbers have changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

5. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policy;
- If found to be 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 proposal.

Reasons

Whether inappropriate development in the Green Belt

6. The appeal site is located in the Green Belt. It is a commercial equestrian facility and associated dwelling that includes several timber stable structures, block/brick buildings, an 'animal welfare barn', areas of hardstanding and paddocks. The site lies within relatively flat open countryside adjacent to the M6 motorway.
7. Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030, July 2017 (CELPS) sets out Green Belt purposes and that planning permission will not be granted for inappropriate development in the Green Belt except in very special circumstances. The policy then goes on to list exceptions where the construction of new development or other forms of development would not be considered to be inappropriate development. This policy reflects the approach to development in the Green Belt as set out in the Framework.
8. Paragraph 154 of the Framework establishes that new buildings within the Green Belt should be regarded as inappropriate subject to a number of exceptions. Of those exceptions, paragraph 154 b) allows for the provision of 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.
9. There is no dispute between the parties that the proposal would be an appropriate facility for outdoor sport/recreation on an existing equestrian enterprise. From the information in the Council's officer report, the reason for refusal is based on the proposed stable block having a harmful effect on the openness of the Green Belt. It is argued that the size of the stable block, either taken on its own or taken cumulatively with the conversion of an existing storage barn to stabling, would 'exceed' small scale development and would increase activity in and around the site, which would be harmful to openness.
10. Openness in terms of the Green Belt can have a spatial as well as a visual aspect. The Framework states 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 their permanence.
11. The proposed stable block would be a narrow 'L' shaped single storey building consisting of 5 stables. It would be built from timber with a shallow pitched roof and the design and materials proposed would be typical for an equestrian style stable block. Nevertheless, it would have a spatial impact as it would be

located on part of the site where there is currently no building. However, it is implicit within paragraph 154 b) of the Framework that some form of impact to the openness of the Green Belt arising from the construction of new buildings for the provision of appropriate facilities for outdoor sport and recreation, may be allowed for under that paragraph. The Courts have determined that openness does not imply freedom from any form of development¹. Thus, the physical presence of a building alone is not sufficient to support that the development would cause harm to Green Belt openness.

12. It is relevant to take into account visual perception as a factor which may reduce the spatial harm from the effect of a development on the openness of the Green Belt. The perceived effect upon openness could be less than might be expected because, for example, the development would have a limited effect upon people's perception of openness from beyond the boundary of the site.
13. In this case, even in the absence of the trees indicated in G29 of the submitted Tree Protection Plan that I observed at my site visit had been removed and replaced by a close boarded fence, the proposed stable block would not extend beyond the previous tree-lined edge of the site. It would be compact and low in form and scale and would occupy an area already underlain by hardstanding as a stable yard. The stable block would be built in traditional materials similar to other stable type buildings seen in the surrounding area and sited close to an existing larger building. I note the Council does not raise any concerns about the design of the proposed stable block or its impact upon the character or appearance of the area.
14. Views of the proposed stables would not be apparent from the surrounding predominantly rural area or the adjacent M6, due to intervening buildings, fences and trees and because it would be closely contained within the existing confined enclave of the equestrian site. As such the proposal would be assimilated into the use of land typical of this rural setting and would not be unexpected or give rise to a loss of visual openness.
15. From the evidence provided, the appellant suggests there would be an increase in stables on the site from 12 to 22, but this would only amount to an additional 10 stables. The proposed development would provide 13 stables. Regardless, this is a considerable increase which would be likely to create additional comings and goings of visitors, staff and deliveries. Due to the rural location of the site, most of these visitors would travel by private vehicle. This would inevitably increase the number of vehicles parked at the site along with general activity associated with a commercial equestrian enterprise.
16. Limited information has been provided about the use of the site, some of which relates to a different proposal for a covered riding arena. I note that the appellant and his wife occupy the dwelling and operate the equestrian business from the site. They keep and breed several personally owned competition horses. They also operate a livery service and High Legh Riding Centre. As such, the equestrian business already generates a considerable amount of activity, particularly at weekends when the majority of lessons take place.

¹ *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council* (Appellant) [2020] UKSC

17. No additional hardstanding would be required to accommodate the proposal and the application form states there would only be one additional full time employee. Whilst there would be an increase in activity on the site associated with the proposed development, it would not be to such an extent that it would adversely harm the spatial openness of the Green Belt.
18. On the above basis, taking into account the scale of the proposed stable block, its locational context, and its spatial and visual implications, when considered on its own or taken with the other elements of the proposal, it would preserve the openness of the Green Belt in this particular case.
19. Furthermore, the proposed stable block would not be contrary to the other requirement of Paragraph 154 b) to ensure that the proposal would not conflict with the purposes of including land within the Green Belt. Insofar as is relevant to this appeal, this is because it would not result in unrestricted sprawl or encroachment of the countryside.
20. The Council do not dispute other aspects of the development, including that the proposed re-use of a storage barn to provide stabling for 8 horses would not conflict with Paragraph 155 d) of the Framework and the uncovered outdoor riding area would be acceptable. From what I have seen and read, I agree that these elements would be appropriate in this location.
21. Accordingly, I conclude that the proposed development would not amount to inappropriate development in the Green Belt. The appeal proposal would be an appropriate facility for outdoor sport and outdoor recreation which preserves the openness of the Green Belt and would not conflict with the purpose of including land within the Green Belt. Given that the proposal would not be inappropriate development, there is no requirement to consider whether there are 'very special circumstances' to justify the development.
22. Consequently, no material conflict arises with Policy PG3 of the CELPS, which aims to keep land permanently open or largely undeveloped. The proposal would also accord with paragraphs 154 b) and 155 of the Framework which relate to proposals for new buildings and other forms of development within the Green Belt.

Other Matters

23. I observed other structures on the site, including stables, that have not been shown on the submitted plans. Even if such structures were unauthorised, breaches of planning control are matters that do not relate to the merits of this scheme and are for the Council to address.

Conditions

24. I have had regard to the conditions suggested by the Council, on which the appellant has had the opportunity to comment. Where required I have revised some of the conditions put to me to ensure that they meet the tests in the Framework and Planning Practice Guidance, without altering their fundamental aims.
25. In addition to the standard time limit condition, it is necessary to specify the approved plans in the interest of certainty. In the interest of the character and appearance of the area, a condition is necessary to control the external materials of the development and details of boundary treatment. With the

exception of the surfacing of the outdoor riding area, which is a replacement facility, details of materials and the position of boundary fencing to the outdoor riding area are indicated on the submitted plans, therefore I have re-worded the suggested conditions relating to these matters. The suggested conditions relating to landscaping also include details of boundary planting and hard landscaping and their management. This is necessary to protect the rural character of the area and in the interests of biodiversity.

26. A condition requiring a visibility splay at the site access is necessary in the interests of highway safety. Although tree group G29 has been removed, a condition requiring that remaining trees on the site are protected from construction and other activity is necessary to ensure compliance with the measures of the Arboricultural Impact Assessment and in the interests of biodiversity and the character and appearance of the area.
27. Conditions are proposed to control the removal of trees/hedgerows during the bird breeding season and to provide a strategy to enhance the biodiversity value of the site. These are necessary in the interests of nature conservation.

Conclusion

28. For the reasons given above, the proposed development would accord with the development plan and the Framework. There are no other material considerations to indicate otherwise. I therefore conclude that the appeal is allowed, and planning permission is granted subject to the attached conditions.

A Veevers

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 approved plans:
 - L100 (Site Location Plan)
 - L102 Rev B (Proposed Site Plan)
 - L103 (Proposed Stable Barn Plans)
 - L104 (Proposed Stable Block Plans)
 - L106 Rev A (Site Sections, Surface & Fence Details)
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials stated on the approved plans.
- 4) Within three months of the date of this decision, 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 details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation timetable. Landscaping (hard and soft) shall be implemented in accordance with the agreed timetable.
- 5) The landscaping scheme and implementation timetable approved by condition no 4 above shall be completed in accordance with the following:-
 - a) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
 - b) All new tree plantings shall be positioned in accordance with the requirements of Table A1 of British Standard BS5837: 2012 Trees in Relation to Construction: Recommendations.
 - c) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
- 6) Within three months of the date of this decision, a landscape and ecological management plan (LEMP), including long term design objectives, management responsibilities and maintenance schedules for all existing and proposed vegetation types and habitat areas, shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall cover a minimum of 30 years from the date of completion of the development hereby permitted, and all landscaping shall be managed in accordance with the approved LEMP.
- 7) Prior to use of the timber stable block hereby permitted taking place, site access visibility splays shall be provided in accordance with the details illustrated in PSA Design drawing number TS3497-01 (see Appendix B of

- submitted Transport Statement); any foliage or other obstruction falling within the visibility splays should be cut back/re-planted/positioned behind the visibility splays or maintained at/not exceed 1.0m in height relative to the level of the site access. The visibility splay shall be retained as such thereafter.
- 8) The development shall be carried out in accordance with the Arboricultural Impact Assessment (Godwins Arboriculture Ltd 13277.01 dated 29/4/21) and Tree Protection Plan (Ref 13277 Rev 01 dated 29/4/21).
- 9) Prior to the use of the timber stable block hereby permitted taking place a strategy and timetable for implementation for the incorporation of features to enhance the biodiversity value of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow. The proposals shall be installed in accordance with the approved details and implementation timetable and retained as such thereafter.
- 10) No removal of any vegetation shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests are found in any hedgerow, tree or scrub or other habitat to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone take place.

END OF SCHEDULE