



Appeal Decision

Hearing held on 9 July 2024

Site visit made on 9 July 2024

by D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/A0665/C/23/3331265

**Willaston Waters Angling and Recreational Fishing, Damhead Lane,
Willaston, Neston CH64 2TP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the 1990 Act).
- The appeal is made by Mrs Jacqui Spencer-Wolfe against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 12 September 2023.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building, erection of toilet block, storage container, new entrance wall and entrance gates.
- The requirements of the notice are to:
 - 1) Remove the gate or reduce the height of the gate to 2 metres in height from ground level.
 - 2) Demolish the toilet block and remove all foundations.
 - 3) Demolish the building and remove all foundations.
 - 4) Remove all resulting materials from the land as outlined in red on the attached enforcement plan.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f) and (g) of the 1990 Act. 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 1990 Act.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

Preliminary Matters

1. There is a typographical error in the enforcement notice. The allegation in section 3 refers to 'gates' as opposed to 'gate'. It was agreed that I could use my powers under Section 176(1) of the 1990 Act without injustice to correct the error.
2. The Appellant explained there is a minor discrepancy between the registered title and the reality on the ground. The consequence is that a very small part of the land covered by the notice is in third party ownership. A corrected plan that omits the third party land was submitted during the Hearing. The parties agreed that I could use my powers of correction to substitute the plan without injustice. I am satisfied that this would overcome the third party concerns.
3. The Appellant considered the notice should be found to be a nullity. It was argued that the reasons for issuing the notice are excessive and include

unnecessary detail, which causes confusion. Further, there are contradictions between the allegation and the reasons for issuing the notice.

4. The allegation includes the walls either side of the entrance gate, which it is then explained would be 'permitted development' by virtue of Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. The allegation also refers to a storage container, which the reasons indicate would be lawful due to the passage of time. The Appellant claimed this made it difficult to understand what constitutes the breach of planning control.
5. A notice would be considered a nullity if it is defective on its face, for example, if it is missing some vital element required by Section 173 of the 1990 Act. The appropriate test is whether the notice is hopelessly ambiguous and uncertain so that the owner or occupier could not tell in what respect it was alleged that they had developed the land without permission or, again, that they could not tell with reasonable certainty what steps they had to take to remedy the alleged breach.
6. In this case, the allegation includes the walls and the container, but the steps do not require their removal. The reasons for issuing the notice provide appropriate clarification. As such, I am satisfied that the notice tells the recipient fairly what they have done wrong and what they must do to remedy it. I do not find the notice to be a nullity, therefore.

The ground (b) appeal

7. To succeed on the appeal on ground (b), the Appellant must show on the balance of probabilities that the matters alleged have not occurred as a matter of fact.
8. The site has operated as a fishery since around 1997. It comprised two ponds that were merged pursuant to planning permission ref 11/02024/FUL, dated 26 August 2011 (the 2011 permission). This granted the erection of a single storey club building, with a floor area of approximately 30 square metres (sqm), the provision of 12 car parking spaces, a new access road and new gates. It was agreed that the 2011 permission had been begun lawfully.
9. Subsequently, permission was granted under application ref 18/00865/S73, dated 6 November 2018, for a variation of Condition 2: plans, of planning permission ref 11/02024/FUL (the 2018 permission). This approved a variation to the clubhouse design, which allowed an increase in floor area to around 60 sqm, to enable the provision of toilets, an office, a kitchen, dry and wet areas and a shop. The permission was subject to six conditions, several of which required the approval of details. Condition 3: hard and soft landscaping, Condition 4: materials, Condition 5: reasonable avoidance measures for amphibians and Condition 6: lighting details, were discharged on 11 April 2019 under application ref 19/00643/DIS.
10. A further application was approved on 6 April 2020, ref 20/00380/S73 (the 2020 permission). This concerned a variation of Condition 1: plans of the 2018 permission to change the orientation and siting of the building. This permission was subject to the same conditions as the 2018 permission.
11. The clubhouse building that has been erected does not accord with that approved under the 2020 permission. In summary, the footprint is larger, it

has a higher ridge height, and a second floor has been created, which is accessed via a staircase in the hallway. There is a larger kitchen area, and the office/storage area has been moved to the first floor. There are also differences in the fenestration. In addition, a gate and walls have been erected at the site entrance, there is a toilet block, and a storage container has been sited.

12. The Appellant accepted that the toilet block, storage container, walls and gate were constructed without planning permission. These elements have occurred as a matter of fact. The dispute centred on the clubhouse, which the Appellant argued was constructed in two stages. It was said that the 2020 permission was begun lawfully and the deviations from the approved plans were not material. The clubhouse was then extended through the erection of a glazed addition. It was maintained that the allegation should, therefore, be the extension of a building without planning permission.
13. The Council claimed that the development pursuant to the 2020 permission was not begun in accordance with the planning permission because it is in contravention of a 'condition precedent'. The conditions attached to the 2020 permission were not discharged formally post-determination. Condition 5 prohibited the commencement of development until a scheme to provide adequate safeguards for protected species had been approved and the approved measures put in place prior to works starting on site.
14. The Appellant explained that the details approved in relation to the discharge of conditions pursuant to the 2018 permission should apply to the 2020 permission because the condition wording is identical. The Council followed the approach of restating the conditions to which the new permission would be subject rather than leaving it to a process of cross-referencing, which is not unusual, but it was accepted that the wording should have been more specific to take account of previously approved details.
15. Irrespective of whether the conditions should be treated as having been discharged, a condition can only properly be described as a condition precedent where it has such significance that it goes to the heart of the planning permission as a matter of judgement. Condition 5 prohibits the commencement of development until a requirement has been met, but it does not concern the detail of the built development itself. Consequently, condition 5 does not go to the heart of the permission and it cannot be considered a condition precedent.
16. There is no dispute that development was 'begun' for the purposes of Section 56(2) of the 1990 Act as a material operation was undertaken. The main part of the clubhouse has been constructed largely on the approved footprint. However, the development then deviated from the approved plans. The roof has a steeper pitch and higher ridge height at 5.6 metres (from floor level) as opposed to 4.5 metres. As set out above, there are differences in the fenestration, a first floor and staircase have been added and there are other changes to the internal layout. Crucially, a relatively large, glazed addition has been built which extends the footprint of the clubhouse to 110 sqm rather than the approved 70.4 sqm (using the Appellant's measurements).
17. Even if I were to accept the Appellant's argument that the building was constructed in two stages, I consider the differences between the approved plans for the main clubhouse building and that as built are material. The ridge height is approximately 1.1 metres higher than approved, which is not insignificant. This alteration makes the building more prominent and visible

from the adjoining road and changes its external appearance through increasing its bulk.

18. Although I find that the main clubhouse building was begun lawfully in line with the 2020 permission, the development deviated from the plans through alterations to the building itself. The erection of the glazed addition then formed a further deviation. In cases where there is a material departure from the approved plans, the entire development should be considered unlawful. In these circumstances the allegation should cite the erection of development without planning permission. This is the approach taken by the Council in defining the breach of planning control, which I consider to be correct.
19. To conclude, I find the matters alleged have occurred as a matter of fact and the ground (b) appeal must fail.

The ground (c) appeal

20. To succeed on ground (c), the Appellant must show on the balance of probabilities that the matters alleged do not constitute a breach of planning control.
21. As set out above, it was agreed that the walls either side of the gate would be permitted development. The walls would not constitute a breach of planning control, therefore. The parties agreed that the notice could be corrected without injustice to remove reference to the walls from the allegation in section 3. There would be no need for a consequential correction to the requirements since the removal of the walls is not sought. The walls are mentioned in the reasons section, but this provides clarification as to why they are treated differently to the gate.
22. I shall correct the allegation to delete the words "new entrance wall". The ground (c) appeal succeeds to this limited extent.

The ground (d) appeal

23. To succeed on ground (d), the Appellant must show on the balance of probabilities that the matters alleged were substantially completed four or more years prior to the issue of the notice such that it is now too late for the Council to take enforcement action.
24. It was agreed that the storage container is a building, and it was substantially completed four or more years prior to the issue of the notice. As such, the container is lawful due to the passage of time by virtue of Section 171B(1) of the 1990 Act, prior to its amendment¹, which was in force at the time the operations were substantially completed.
25. It was agreed that I could correct the notice without injustice to remove the storage container from the allegation and no consequential corrections would be required. I shall correct the notice accordingly. The ground (d) appeal succeeds to this limited extent.

¹ S.171B(1)(a) and (b) substituted for words by Levelling-up and Regeneration Act 2023 c. 55 Pt 3 c.5 s.115(1) (April 25, 2024: substitution has effect as SI 2024/452 reg.3(b) subject to transitional provision specified in SI 2024/452 reg.5).

The ground (a) appeal and the deemed planning application

Main Issues

26. The ground (a) appeal is that planning permission should be granted for the matters alleged. The terms of the deemed planning application are derived from the corrected allegation, hence, planning permission is sought for the erection of a building, the erection of a toilet block, and a new entrance gate.

27. The main issues are:

- Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
- The effect of the development on the openness of the Green Belt.
- The effect of the development on the character and appearance of the area.
- 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.

Whether the development would be inappropriate development and the effect on openness

28. The appeal site is located within the Green Belt. 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. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

29. The Framework advises that the construction of new buildings is inappropriate development in the Green Belt. Exceptions to this include the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport and outdoor recreation; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

30. The site is occupied by a large fishing pond, which is surrounded by trees. The area to the south of the pond has been laid out and surfaced with aggregate for parking. The clubhouse and facilities building has been sited on the western part of the hardstanding. The main section extends to 5.6 metres at the ridge and incorporates relatively steeply pitched roof slopes, with windows facing the pond. The exterior is clad in timber. The floor plans show a wet and dry area served by large windows, a commercial kitchen, a shower with toilet, and a storage area at the first floor. The glazed addition is single storey with a vaulted roof.

31. The outdoor toilets are accommodated in a modest but well-built timber shed that lies adjacent to a container on the southern boundary. Vehicular access is

from Damhead Lane in the corner of the site. The access is flanked by two stone walls of approximately 2 metres in height and the entrance is secured by a 2.7 metre high laser cut gate.

32. The area is rural in character, but I saw there is development in the vicinity. This includes Liverpool University's Leahurst Campus to the south, residential development to the north, farm complexes and other residences.
33. The Appellant explained that the aim and purpose of the development is to widen access to recreational fishing by creating a venue to meet the needs of groups and individuals who face barriers to participation due to medical conditions, disability, age or other limitations. The venue would provide training and coaching alongside the work of partner organisations, such as, the Blind Veterans, the Angling Trust, 'Blesma' (The Limbless Veterans), British Blind Sport, Tackling Minds, Phoenix Heroes, along with local schools and other community organisations, many of which have written in support of the development.
34. It would also provide an enhanced fishing experience where learning about the environment is crucial. The overall aim is to establish a Community Interest Company. The site would not be restricted to groups, but it would be available for their exclusive use at specified times. It would also operate more generally as a commercial fishery for new and existing members.
35. There has been an established fishery at the site for many years and there was no dispute that the development has an operational need for a countryside location. It was explained that the facilities needed enhancement to enable more diverse groups of people to engage in fishing activities. I understand that the larger building would allow for refreshments, demonstrations, practical coaching sessions and break out areas for participants, while the glazed addition would provide shelter. The first floor is required for office and storage space. It was explained that this needed to be relocated due to the expanded commercial kitchen, which was required in line with standards regarding food preparation. The outdoor toilets provide necessary facilities, and the gate has been installed for security purposes.
36. The clubhouse is a substantial building of a quality design and materials. However, its design and layout does not accord with the vision for the establishment as set out by the Appellant. For example, the main access to the clubhouse is via an entrance door on the south facing elevation. This leads onto an entrance hall. The wet and dry area is through a door immediately to the left, requiring a 90 degree turn. The toilet/shower room lies immediately to the right. The doorways have dividers or draft excluders at floor level as opposed to being completely flat, which is not conducive to safe and easy access for those with limited mobility or visual impairment. The car park is covered with crushed hardcore, which would provide an unstable surface. I am not satisfied that the building has been designed with the end-user in mind, since it would require difficult manoeuvres for wheelchair users and incorporates trip hazards for those with visual impairment.
37. The wet and dry areas are not delineated, as I would have expected. The area comprises one room with quality tiled flooring throughout. The access to the wet/dry area would be through the main entrance, or the openable doors in the glazed addition which has a stepped access. There is no obvious level access to the wet/dry area, without coming through the main door into the hallway. It

- would be usual for the access to the wet area to be direct from the outdoors otherwise its purpose as an entrance for people entering the clubhouse while still wearing muddy boots or outdoor clothing is defunct.
38. The glazed addition provides space that was suggested would be used flexibly as an educational area with breakout space or as a sitting area or for serving refreshments. Again, the design does not lend itself to flexibility. The solid wall between the glazed area and the wet/dry area limits its use as one large space. The only level access to the glazed area is via the main entrance, through the wet/dry area, which would not be convenient if the spaces were being used independently. I would expect the area to be capable of easy adaptation to open it as one room, divide it with moveable barriers, provide flexible seating and possibly incorporate a screen or other technology for presentations or audio equipment. While the technological elements may be planned in the future, there was no evidence that the design allowed for such features.
39. I heard that the glazed addition would allow indoor casting and demonstrations. However, I am not convinced that this would be possible in the way described. The room is limited in size due to the solid barrier separating it from the wet/dry area. Casting or other demonstrations would be difficult if the room was being used by a number of people.
40. Overall, I find the clubhouse, as built, is not an appropriate facility for outdoor sport and recreation because the design and layout is not conducive to its purpose. In reaching this decision, I have taken account of the letters of support from partner organisations, in particular the Angling Trust. However, I remain of the opinion that the facilities envisaged could not be provided within the approved building without further adaptation. I accept, however, that the toilet block is an appropriate facility, and an entrance gate is required for security although not necessarily of the height as installed.
41. In terms of the effect on openness, it is accepted that openness has a spatial aspect as well as a visual aspect and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case². Openness does not imply freedom from any form of development. The impact of development on openness is not necessarily related to its size but also its purpose³. Furthermore, the visual qualities of the land may be an aspect of the planning judgement in applying this broad policy concept.
42. The clubhouse is only visible from a short stretch of Damhead Lane. Nonetheless, it has visual prominence due to its design, in particular, its size and scale and the height of the roof. Crucially, the building is not of a design that would readily be associated with the fishery. Even taking account of the wider purpose for the building as envisaged by the Appellant, the design is that of a quality modern building with a glazed 'conservatory type' addition that could easily be associated with residential development. I would expect the form and design of a clubhouse to be a simple, utilitarian-type structure with flexible internal space that could be accessed easily. The clubhouse as built has an adverse visual effect on openness due to its inherent design and size.

² *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466; *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council* [2020] UKSC.

³ *Europa Oil and Gas Ltd v SSCLG* [2013] EWHC 2643 (Admin).

43. The visual impact on openness is compounded by the gate. Damhead Lane is a narrow rural lane with no footways. It is relatively devoid of development and the other accesses to the University Campus or farm complexes are low key. In contrast, the gate at the site entrance is a prominent feature that stands out in views from the lane and draws the attention of passers-by. Although the gate is of a quality design, it would not necessarily be associated with a fishery.
44. The Framework acknowledges that new buildings to provide facilities for outdoor sport and recreation could be acceptable in certain circumstances. Therefore, the fact that a building occupies space that would otherwise be open is not a reason in itself to find a harmful effect on openness. However, the building in this case has a footprint of 110 sqm, which I consider to be disproportionate to the size of the fishery. A smaller and more compact building could still accommodate the Appellant's requirements if the internal space was designed for more flexible use. I consider the clubhouse has an adverse spatial impact due to its size and design.
45. The toilet block is located sensitively at the edge of the site. It is visible from Damhead Lane but is appropriate to its function due to its proportionate size and utilitarian design. It has a neutral effect on openness.
46. I have taken account of the nature of the Green Belt in this location, which includes relatively large-scale built development. However, those buildings are in connection with established farms, the university campus or are residential development on land released for that purpose. The appeal site is an established fishery with a clubhouse to be used to meet the needs of those using the facility. The mismatch between the design and the end-purpose of the building causes harm to openness. This is not related to its size alone but also to its design which, combined with the entrance gate, has an urbanising effect on the site. This would amount to encroachment in the countryside.
47. I note the appeal decision referred to by the Appellant, which concerned an 18-hole golf course with a clubhouse in the Green Belt within an area devoid of any built form⁴. It was found that the clubhouse would not be inappropriate development. However, the Inspector had regard to the type of development, as well as its scale, volume, visibility and location. My finding is that the clubhouse subject to this appeal would not be readily associated with its stated purpose due to its design. This, combined with its scale and visibility, has an adverse effect on openness in my judgement. I accept that where facilities serve a genuine purpose for outdoor sport and recreation, a flexible and contextual approach should be taken to the assessment of impacts on openness. In this case, the facilities would be within an established fishery, but the design of the clubhouse would not reflect its setting.
48. I conclude that the development would not be an appropriate facility for outdoor sport and recreation, the facilities would not preserve the openness of the Green Belt and it would conflict with the purposes of including land within it. Consequently, I find the development to be inappropriate development in the Green Belt.

⁴ APP/N5090/W/16/3151579 dated 10 April 2017.

Character and Appearance

49. The site is within a part of the countryside that is characterised by open fields interspersed with built development. The site itself benefits from screening provided by the mature trees. Nonetheless, the clubhouse, toilet block and gate are visible from Damhead Lane. The development is prominent in views from the lane due to the height and design of the gate, combined with the scale and design of the clubhouse beyond. The toilet block is more discreetly located and is of a utilitarian design commensurate with its function.
50. As explained above, the form and design of the clubhouse is not readily associated with the fishery in which it is sited, nor are the gates. The development cannot be considered of an appropriate scale, layout and design and is not sympathetic to the characteristics of the site as a fishing pond in the countryside. As such, I find that the development has an adverse effect on the character and appearance of the area. However, I accept that there are limited public views of the site from the wider area and the impact is reduced through the retention of landscape features. I give this harm limited weight, therefore.

Other Considerations

51. I have found that the 2020 permission was implemented lawfully, and this forms a valid fallback position. The design of the main clubhouse is similar to that as built aside from the roof, the porch and fenestration details, and the internal alterations described above. However, the combined effect of the alterations to the main clubhouse and the glazed addition result in a building that is substantially larger and different in appearance. The fallback position can only be afforded limited weight, therefore.
52. The fallback position for the gate would be a gate of similar design but extending to 2 metres in height, rather than its current height of 2.7 metres. The installed gate is significantly higher than the walls, which makes it appear over-sized and incongruous. The reduction in height to 2 metres would bring the gate in line with the flank walls and it would have less of a visual impact. The fallback position would be less obtrusive in views from the lane, which would lessen the resulting harm. The fallback position in relation to the gate carries limited weight, therefore.
53. The Framework seeks to promote access to the countryside and the enhancement of facilities that improve health, social and cultural well-being for all sections of the community. The benefits of participation in outdoor sport and recreation are well-established as an essential aspect of wellbeing, as is being part of a supportive community. The enhanced facilities would offer the chance to promote inclusivity and raise awareness about the capabilities of people with disabilities and encourage social cohesion, whilst also ensuring the viability of the existing fishery. However, as explained above, I do not consider the design of the building would fully achieve its stated purpose and so I afford this consideration only moderate weight.
54. The development offers environmental benefits due to the opportunity to provide education to users of the fishery and other groups. The Appellant also intends to manage the site in an environmentally supportive way. However, it has not been shown that this benefit is dependent on the clubhouse as built and it carries limited weight.

55. There has been some limited economic benefit during the construction phase of development and it was claimed that the works will encourage more fee paying customers, thus increasing revenue. The expansion of rural businesses should be encouraged, but it is not apparent that the same benefits could not be achieved through implementation of the approved scheme. The economic benefits carry only limited weight.
56. The gate is required for reasons of security, which I accept. However, I saw that it would be possible to enter the site fairly easily over the fence. It was not adequately explained why it is necessary to retain the gate at its current height. This consideration carries little weight, therefore.
57. Finally, I am referred to a recent outline planning permission for the development of new buildings in connection with existing fishing ponds at Cheshire Oaks Fisheries (ref 22/01150/OUT). In that case the Council found the erection of two portal-framed buildings to provide storage, offices, a café, changing and toilet facilities and a shop would be appropriate facilities for outdoor recreation. I understand that the site is a larger commercial fishery, and it was argued that it would not bring the social and environmental benefits offered by the appeal development.
58. The relative scale of the development at Cheshire Oaks Fisheries appears comparable to that proposed at the appeal site. However, as explained, I do not consider that the design and layout of the unauthorised clubhouse accords with the use of the site as a commercial fishery that would also function as a Community Interest Company. The Council was satisfied that the development proposed at Cheshire Oaks Fisheries was acceptable in its context and having regard to the site-specific circumstances. This matter carries limited weight, therefore.
59. Age and disability are 'relevant protected characteristics' for the purposes of the Equality Act 2010 and the Public Sector Equality Duty. Hence, I must have due regard to the need, among other things, to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not. The vision for the development is to promote equality of opportunity and improve access to recreational facilities with an aim of promoting social cohesion. However, it has not been shown that the development would achieve its stated purpose. Moreover, the same benefits could equally be achieved through implementation of the approved scheme. The harm resulting from the development is considerable and the negative impacts of dismissing the appeal would not outweigh the conflict with planning policy, especially given the alternative available.

Alternative Schemes

60. The Appellant has offered alternatives short of complete removal of the unauthorised buildings, as sought by the Council. This includes the removal of the gate and/or the toilet block and/or the porch. While I find the gate to have a harmful impact, I do not consider its removal should be pursued as it would leave the site more vulnerable to intruders. The Appellant also offered to reduce the height of the gate to between 2 metres and its height as installed. I do not consider a small reduction would alleviate the harm. The gate would still be higher than the walls and it would remain a prominent and uncharacteristic feature within this rural location.

61. The toilet block is of a size and design commensurate with its purpose. It is located at the edge of the site against a backdrop of trees and, while visible, it is not out-of-character with the use of the site as a fishery. Its removal would not alleviate the harm.
62. The porch is located on the south facing elevation. It is a modest canopy-style structure that has limited visual impact. Its removal would not address the problems that arise from the deviations between the approved scheme and that built.
63. Similarly, the Appellant has offered to reduce the size of the storage container, which is considered to be lawful, to improve the appearance of the site and to increase openness. The container is located on the southern boundary. It is not visually prominent, and it does not stand out as an unusual feature within its setting. The harm to openness that I have identified arises primarily from the clubhouse. The reduction in size of the container would not overcome that harm.
64. It was suggested that the use of the first floor could be restricted. The harm does not arise from the floorspace but from the relative scale and design of the clubhouse. The removal of the staircase would not reduce the bulk of the building and is not an acceptable alternative.
65. The removal of the glazed addition was also offered as an alternative scheme. This would leave the main clubhouse as built, which would be in contravention of the planning permission. Although this would not remedy the breach of planning control, I have powers to grant planning permission for the whole or part of the matters alleged. The retention of the main clubhouse would be part of the matters alleged and I am satisfied that the glazed addition would be capable of removal without harm to the main clubhouse building.
66. Nonetheless, the unauthorised clubhouse is more prominent than that approved due to its increased ridge height and bulk. The resulting impact is harmful to the Green Belt. The removal of the glazed addition would not overcome this harm and I do not consider it a suitable alternative. Moreover, it is likely that the unauthorised layout is less accessible than approved as the double doors between the hallway and the wet/dry area have been replaced with a single door.
67. I do not consider that the alternatives would overcome the harm that I have identified. Nor would the imposition of planning conditions make the development acceptable in planning terms.

Conclusion

68. Overall, I find that the development would be inappropriate development in the Green Belt. The resulting harm carries substantial weight. In addition, there would be limited harm to the character and appearance of the area. I find that the totality of the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
69. The development would not accord with Policies STRAT9, ENV2 and ENV6 of the Cheshire West and Chester Local Plan: Part 1 or Policy DM3 of the Local Plan: Part 2 which, among other things, seek to ensure development is

proportionate to the nature and scale of the site and its setting. Consequently, it would be contrary to the development plan as a whole.

70. The ground (a) appeal fails, therefore.

The ground (f) appeal

71. Section 173(4) of the 1990 Act sets out the two purposes of an enforcement notice (a) to remedy the breach of planning control that has occurred and (b) to remedy any injury to amenity caused by the breach. The notice requires the removal of the unauthorised development. Its purpose is to remedy the breach of planning control. What must be considered is whether the steps required exceed what is necessary to achieve that purpose.

72. As explained above, there is an extant planning permission for the erection of a clubhouse at the site. The notice does not include the option to alter the development so that it accords with the 2020 permission, because the Council considered this to have lapsed. As I have found the 2020 permission was begun lawfully, the notice should include an alternative requirement that allows the development to be altered to comply with the terms of the 2020 permission, as this would remedy the breach. I shall, therefore, include an additional requirement to that effect.

73. To this extent, the appeal on ground (f) succeeds.

The ground (g) appeal

74. The ground (g) appeal is that the period for compliance falls short of what should reasonably be allowed. The Appellant is seeking 12 months to employ contractors and/or explore alterations to the existing development with the Council.

75. It was agreed that nine months would be an acceptable extended compliance period. I find this reasonable and proportionate in the circumstances and I shall vary the notice accordingly.

76. The ground (g) appeal succeeds, therefore.

Conclusion

77. For the reasons given above, I conclude that the appeal should succeed partially on grounds (c), (d) and (f) and on ground (g). I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act.

Formal Decision

78. It is directed that the enforcement notice is corrected by:

- The deletion of the word "gates" in section 3 of the notice and its replacement with the word "gate".
- The substitution of the plan attached to the notice with the plan attached to this Decision.
- The deletion of the words "new entrance wall" and "storage container" in section 3.

It is directed that the enforcement notice is varied by:

- The addition of the words "OR alter the building to comply with the terms of the planning permission ref 20/00380/S73 dated 6 April 2020 including the conditions subject to which that permission was granted" to requirement 5.3.
- The substitution of six months with nine months as the period for compliance.

79. Subject to the corrections and variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under Section 177(5) of the 1990 Act.

D Moore

Inspector

APPEARANCES

FOR THE APPELLANTS:

Mr Rawdon Gascoigne (Director Emery Planning)
Ms Lynn Jones (Associate Emery Planning)
Ms Jacqui Spencer-Wolfe (Appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ed Shepherd (Senior Planner)
Ms Jennifer Weigh (Enforcement Planner)
Ms Catherine Reay (Principal Planning Officer)

INTERESTED PERSON:

Mr Darren Birch (Regional Angling Development Officer (North) at Angling Trust)

DOCUMENTS SUBMITTED AT THE HEARING

Revised Enforcement Notice Plan

DOCUMENTS SUBMITTED AFTER HEARING BY AGREEMENT

Revised wording of proposed condition 8

