



Appeal Decision

Site visit made on 30 July 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Appeal Ref: APP/A0665/W/24/3339197

Hover Force Activity Centre, Grassy Lane, Frodsham, Cheshire WA6 7GQ

- 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 Hover Force Limited against the decision of Cheshire West and Chester Council.
 - The application Ref is 22/03854/FUL.
 - The development is construction of new building associated with outdoor target activities and siting of two weather shelters/viewing areas.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application form did not include a full site address for the development. Therefore, I have taken the above address and postcode from the appeal form, which reflects the site location shown on the plans accompanying the application.
3. The main parties have highlighted that the 'weather shelters' have been on site since 2017 and have only been re-sited. However, the parties identify that one has been adapted to include a timber canopy structure. I observed at the time of the site visit that the timber canopy structure is located above a steel container and the outdoor target area building (the new building) was largely completed. Therefore, the development is retrospective, and I have dealt with the appeal on that basis.

Main Issues

4. The main issues are:
 - whether the appeal scheme would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including assessing the effect of the appeal scheme on the openness of the Green Belt;
 - the effect of the appeal scheme on the character and appearance of the area; and
 - if the appeal scheme is found to be inappropriate development, 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 scheme.

Reasons

Inappropriate development and Green Belt openness

5. The appeal site is an outdoor activity business operating on Frodsham marshes, located within the Green Belt and open countryside. The business provides a range of activities, including hovercraft racing, offroad karting, mud buggies, axe throwing, and a shooting range. The land includes a number of buildings and structures associated with the outdoor recreational facility.
6. The Framework establishes that new buildings in the Green Belt are inappropriate other than for specified exceptions that are set out in paragraph 154. One such exception, 154(b), is 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. Policy STRAT 9 of the Cheshire West & Chester Council Local Plan Strategy (Part One) Strategic Policies (LP1) seeks to protect Green Belt in line with the National Planning Policy Framework.
7. The new building has an 'L' shaped footprint, providing an outdoor air rifle range and storage space. The air rifle range element of the building is low level and primarily clad in timber. The storage building element is a larger structure, with a greater height, with steel profile sheeting to its walls and roof. Overall, the building is large.
8. The timber canopy structure, located above the existing steel storage container, has a flat roof with low level timber fencing on three sides, to create a viewing platform for customers. The platform is accessed via a timber ramp with fencing on either side. As a result, the ramp and canopy structure, with the steel container, is a sizable development, occupying a prominent position within the site.
9. The new building supports the outdoor recreation activities on the site, including an outdoor air rifle range, space for indoor target practice and an area for customers to observe. The new building is also used by staff to carry out running repairs and ensure that weapons are made safe and secure. In addition, the building is used as additional storage space for maintenance of machinery. On the evidence before me, I am satisfied that the building is used in connection with the outdoor recreational facility, as is the viewing platform above the steel storage container.
10. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Case law in *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466 has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect, as set out in the Planning Practice Guidance.
11. The new building and canopy structure introduce a large amount of additional built form and massing on to the land, which has a flat, open appearance. This results in a loss of spatial openness to the Green Belt which therefore results in an unavoidable impact, which carries substantial weight.
12. Furthermore, while I acknowledge that the new building, due to its form and appearance, assimilates into the landscape, nestled adjacent to the cluster of existing buildings and structures within the site, it is visible from a number of

vantage points. In particular, it is visible from the nearby public rights of way (PRoW). Likewise, the timber canopy structure, due to its size and elevated position above the steel container, is also visible from the surrounding PRoW and wider surrounding area. As a result, the new building and canopy structure result in harm to the visual openness of the Green Belt.

13. One of the five purposes of the Green Belt identified by paragraph 143 of the Framework is relevant to the appeal scheme, which is to assist in safeguarding the countryside from encroachment. The appeal scheme results in development that further encroaches on to land which was previously open. As a result, the development conflicts with this Green Belt purpose.
14. For the reasons given above, I conclude that the appeal scheme is inappropriate development in the Green Belt and harms the openness of the Green Belt and the purposes it serves.

Character and appearance

15. The surrounding area has a flat, open, and largely undeveloped appearance, located in between the M56 and the River Mersey. The new building is positioned close to the existing cluster of buildings and structures on the site. However, the timber canopy structure is sited away from the cluster of buildings, near to the entrance of the site.
16. The canopy structure, on top of the utilitarian steel storage container, is highly prominent from various vantage points within the surrounding area due to its height and elevated position. Even though the canopy is constructed from timber it has a functional design and its location above the steel container results in the overall structure being unsightly. As a result, it is incongruous within the landscape and its appearance could not be softened by landscaping within or around the site, due to its elevated position.
17. In addition, the presence of wind turbines, electricity pylons, and disregarded HGV trailers, within the landscape, has not eased my concern that the canopy structure has an unacceptable and prominent appearance, which is visually harmful within its surroundings.
18. The new building, whilst having a large footprint, assimilates into the site due to its juxtaposition with other buildings and structures within the site. The low height of the open fronted air rifle range element of the building, with timber cladding, is also not prominent. Furthermore, while the taller part of the building, which has steel profile cladding, is more visible, it has a similar appearance to the existing, larger storage building within the site. The new building would be viewed within the context of the existing buildings, and it is not visually harmful within the site and landscape. I also acknowledge that existing vegetation and planting could be supplemented by further planting around the site to soften the appearance of the building.
19. For the reasons outlined above, I conclude that the timber canopy structure is unacceptably harmful to the character and appearance of the area. Consequently, it conflicts with Policies STRAT 9 and ENV 6 of the LP1 and Policy DM 3 of the Cheshire West and Chester Local Plan Part Two Land Allocations and Detailed Policies (LP2), which together and amongst other things, seeks high quality design that protects the intrinsic character and beauty of the countryside.

Other considerations

20. The new building is required to facilitate and contribute to the growth of the business in a rural area, as supported by the Framework, through the provision of outdoor target activities on the site. I also acknowledge that the provision of recreational activities on the land, that is otherwise underused, attracts customers from far and wide and has resulted in less anti-social behaviour. Furthermore, the new building provides additional, secure storage space, within a safe environment for staff and customers. However, in the context of the existing site and facilities on the land I have been provided with very limited evidence about the level of growth to the business that the appeal scheme contributes. Therefore, due to the relatively small-scale nature of the appeal scheme I only attach moderate weight to these benefits.
21. The business positively encourages armed forces veterans and disabled customers to use the facilities. The shelters also provide somewhere slightly sheltered for customers to wait or to spectate during inclement weather. This supports the outdoor recreation use of the site and contributes towards supporting the special needs and requirements of all customers. Again, the evidence is very limited in respect of the level of benefits to the broad range of customers that the facility attracts. As such, these benefits also attract moderate weight.
22. There is no dispute between the parties that the Council has raised no concerns with regard to flood risk, the effect on ecology and biodiversity, traffic and highways impacts or the effect on the living conditions of nearby residential properties. However, these are a requirement of planning policy and are neutral matters to which I attribute no weight.

Green Belt Balance

23. 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'. It goes on to state in paragraph 153 that '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 appeal scheme, is clearly outweighed by other considerations.
24. The appeal scheme is inappropriate development in the Green Belt and therefore harmful by definition. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. The Framework states at paragraph 153 that substantial weight is given to any harm to the Green Belt. I therefore place substantial weight on the harm by inappropriateness and harm to openness and the purposes of the Green Belt that I have identified. The timber canopy structure is also harmful to the character and appearance of the area.
25. I have given some moderate weight to the other considerations in favour of the appeal scheme, as set out above. However, they do not clearly outweigh the harm arising from the development. Consequently, the 'very special circumstances' necessary to justify inappropriate development in the Green Belt do not exist. Therefore, the appeal scheme conflicts with the Green Belt protection aims of the Framework. It also conflicts with Policy STRAT 9 of the LP1.

26. The Council's reason for refusal on this issue refers to Policy ENV 6 of the LP1 and Policy DM 3 of the LP2. Those policies though do not clearly relate to this main issue concerning Green Belt and so are not directly relevant.

Conclusion

27. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 (the Act). The Act sets out the relevant protected characteristics which include disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. The negative impacts of dismissing the appeal will arise from their not being an outdoor air rifle shooting opportunity, indoor target practice area or a covered viewing platform for customers with disabilities. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on those with protected characteristics would be proportionate, having regard to the harmful effect of the appeal scheme that I have identified.
28. The development conflicts with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan.
29. For the reasons given above, I conclude that the appeal should be dismissed.

N Bromley

INSPECTOR