



Appeal Decision

Site visit made on 16 July 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2024

Appeal Ref: APP/A0665/W/24/3337711

Land to the South of Roslyn, Long Lane, Saughall, Chester CH1 6DN

- 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 Mr P McDonagh, of PKL Partners Limited, against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/02832/FUL.
 - The development proposed is erection of stable block and associated hard standing.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by 'Saughall residents of Long Lane' against Mr P McDonagh. This application is the subject of a separate decision.

Preliminary Matter

3. The description of development in the fourth bullet point of the above header is taken from the application form, which did not include the change of use of the wider site for the keeping of horses. I have dealt with the appeal on that basis.

Background and Main Issues

4. The main parties have highlighted that the appeal site is located on Green Belt land. Whilst they agree that the appeal scheme would not constitute inappropriate development in the Green Belt, and it did not form a reason for refusal, I acknowledge that interested parties have concluded differently and provided evidence to support their case. The appellant was subsequently given a further opportunity to provide additional comments on Green Belt matters. As such, I shall also consider the matter in my decision.
5. Consequently, the main issues are;
 - the effect of the proposed development on European protected species and habitats, with specific regard to Great Crested Newts;
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including considering the effect of the proposal on the openness of the Green Belt and its purposes; and

- if the proposal 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 proposal.

Reasons

European protected species and habitats

6. Great Crested Newts are designated and protected under the Conservation of Habitats and Species Regulations 2017. Current advice states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
7. Two ecological reports were submitted in support of the application and accompany this appeal. The latest of these is a report of Great Crested Newt (GCN) surveys (the Survey Report), dated June 2022, produced by Tyrer Ecological Consultants Ltd, which expands on a Preliminary Ecological Appraisal, dated February 2022, by the same company. The Survey Report identifies that GCN are present in two ponds, 'Pond 1' and 'Pond 2', located adjacent to the appeal site. The population size was recorded as 'medium' and overall, the two ponds are assessed as a 'Good' suitability for GCN. However, the Survey Report concludes that the appeal site is broadly considered to be 'low value' for GCN.
8. The Survey Report proceeds to use the Natural England Rapid Risk Assessment tool, which indicates that the 'development activities are of such a type, scale and location that an offence is likely.' Therefore, in order to minimise the effects of the proposed development, which is within close proximity to Ponds 1 and 2, it is recommended that the proposed building and works are re-located to the opposite side of the appeal site or at least 50 metres from the 'Core' habitat zone of Ponds 1 and 2.
9. While the Survey Report shows a possible broad location for the proposed development, full details and plans to show the position of an alternative scheme and the extent of the works have not been submitted. I am also mindful that the Survey Report is now over two years old. Therefore, on the evidence before me, I cannot be certain that the survey results can be relied upon or that an alternative scheme could be achieved and provide the necessary mitigation.
10. As an alternative, the main parties have drawn my attention to the Natural England District Level Licencing (DLL) approach, which the Council suggests would have resolved the last remaining issues. However, it is clear that the appellant did not consider that the DLL approach was needed because a suitable level of mitigation is proposed.
11. I have had regard to the appellants suggestions that the Council has considered other very similar sites, with very similar land circumstances, and deemed that DLL is not necessary. Whilst that may be the case, the full details of these cases have not been provided. In any event, the issue is highly fact sensitive and site specific, turning on the individual circumstances of each case.

Nevertheless, as I am required to do, I have determined the appeal on the plans and details before me.

12. Consequently, for the above reasons, I conclude that it has not been demonstrated that the development would not adversely affect GCN, a European protected species, and their habitat. This is contrary to Policy ENV4 of the Local Plan (Part One) Strategic Policies (LP1) and Policy DM44 of the Local Plan (Part Two) Land Allocations and Detailed Policies (LP2), which seek to safeguard and enhance biodiversity.

Whether inappropriate development

13. The appeal site is a grassed area of land, accessed off Long Lane, within the Green Belt and open countryside. The site lies to the rear of a linear row of residential dwellings that front the road. The land behind the houses, has a tranquil, rural character and overall it makes a positive contribution to the surrounding countryside and landscape.
14. The proposed development is for a new timber stable building, located close to the side boundary. A new hardstanding is also proposed to the new building with a parking and turning area for vehicles and horseboxes.
15. 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 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. Policy STRAT 9 of the LP1 seeks to protect Green Belt in line with the Framework.
16. The provision of a new stable building would provide appropriate facilities for outdoor sport and recreation. However, the proposed building would have three stables and be of a reasonable size. In addition, there would also be the construction of an access track of a considerable length. A sizeable parking and turning area, in front of the stable, is also proposed.
17. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The introduction of a stable building at the appeal site would have an impact on the spatial openness of the Green Belt, introducing a new standalone building within the field, which is currently overgrown with vegetation and free from built development. Similarly, the introduction of a long access track, parking and turning area would also unacceptably erode the spatial openness of the Green Belt.
18. The proposed building would be sited towards the rear of the site and the trees and tall hedgerows on the side boundary would restrict views of the proposal from wider vantage points, particularly during the summer months. The linear row of houses that front the road would also restrict views of the proposal. Nonetheless, the proposed hardstandings would open up the land and there would be some glimpses of these areas from the narrow access track. The proposed stable building would also be visible from the rear gardens of the neighbouring properties. Therefore, there would be some minor harm to the visual openness of the Green Belt.

19. One of the five purposes of the Green Belt identified by paragraph 143 of the Framework is relevant to the proposal, which is to assist in safeguarding the countryside from encroachment. The proposed development would encroach on to land which is currently open. As a result, it would also undermine the purpose of including land within the Green Belt.
20. As I have found that the proposal would not preserve the openness of the Green Belt and it would conflict with the purposes of including land within it, the appeal proposal would amount to inappropriate development in the Green Belt.

Other Considerations

21. The proposed development would offer private opportunities for recreation and leisure. However, these are private benefits, to which I therefore afford only limited weight.
22. There is no dispute between the parties that the Council has raised no concerns with regard to flood risk or surface water drainage, contaminated land matters, the effect on the appearance of the landscape, highway or pedestrian safety 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 proposal, is clearly outweighed by other considerations.
24. The proposed development would be 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.
25. It has not been demonstrated that the appeal proposal would not adversely affect GCN, a European protected species, and their habitat. This matter weighs significantly against the proposal.
26. The limited private benefits and neutral matters that I have identified do not clearly outweigh the harm arising from the proposal. Consequently, the 'very special circumstances' necessary to justify the proposed development do not exist. Therefore, the proposed development would thus conflict with the Green Belt protection aims of the Framework. It would therefore also conflict with Policy STRAT 9 of the LP1, and the associated policies of the Framework as set out above.

Conclusion

27. I have found it has not been shown the scheme would not have an adverse effect on GCN, and that issue alone is sufficient for me to resist the proposed development. However, I have further found it to be inappropriate development for which 'very special circumstances' do not exist. The appeal scheme 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.
28. As I am dismissing the appeal, the proposal would not infringe the rights of the occupants of a neighbouring property under Article 8 of the European Convention on Human Rights, as incorporated into the Human Rights Act 1998, and the Public Sector Equality Duty contained in section 149 of the Equality Act 2010.
29. For the reasons set out above, I conclude that the appeal should be dismissed.

N Bromley

INSPECTOR