



Appeal Decision

Site visit made on 15 October 2024

by A Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2024

Appeal Ref: APP/R0660/W/24/3344287

Freyas Folly Stables, Gore Lane, Alderley Edge, Cheshire SK9 7SP

- 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 and Mrs J Wilkinson against the decision of Cheshire East Council.
 - The application Ref is 23/3236M.
 - The development proposed is demolition of existing stables hardstanding and equestrian arena and construction of single detached dwelling.
-

Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing stables hardstanding and equestrian arena and construction of single detached dwelling at Freyas Folly Stables, Gore Lane, Alderley Edge, Cheshire SK9 7SP in accordance with the terms of the application, Ref 23/3236M, subject to the conditions set out in the schedule at the end of this decision.

Applications for costs

2. An application for a full award of costs was made by Mr and Mrs J Wilkinson against Cheshire East Council. This is the subject of a separate Decision.

Preliminary Matters

3. The appellant has submitted alternative plans with the appeal showing the external chimney stack removed from the proposed dwelling. It is not for me to choose between plans as suggested by the appellant. I have carefully considered the implications of accepting these plans in the light of the Procedural Guide, Planning Appeals, England and the Holborn judgement¹. The Procedural Guide advises that the appeal process should not be used to evolve a scheme. With regards to the Holborn judgement, it must be considered whether the proposed amendment involves a substantial difference or fundamental change to the application, and if any proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
4. In this instance, the chimney relates to a substance of concern expressed by the Council. Whilst reducing the footprint of the building, these plans were not taken into account when the Council made its decision or upon which the views of interested parties were sought. I cannot therefore be certain that if I was to accept them no party would be prejudiced by my so doing. Accordingly, I have not taken them into account in my assessment of the appeal.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

5. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. The proposed reforms are draft and therefore may be subject to change before any final document is published and thus carry limited weight. However, the written ministerial statement (WMS) is a material consideration which confirms the direction of travel of Government Policy. The parties have had the opportunity to comment on the proposed changes through the appeal process.

Main Issues

6. The main issues are:
- Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies, including its effects on the openness of the Green Belt; and,
 - If inappropriate development, whether the 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 necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

7. Paragraph 154 of the Framework establishes that, other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One exception at 154 g) is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
8. Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030 (July 2017) (the CELPS) similarly sets out at criterion PG.3 that the construction of new buildings is inappropriate in the Green Belt, subject to several exceptions. However, the exception relating to previous developed land at PG3.3vi does not include reference to housing need and is therefore not fully consistent with the Framework. As such, I attach more weight to the more recent wording of the Framework.
9. The appeal site currently comprises of a timber stable block, timber store, summerhouse, an area of hardstanding and an equestrian arena bound by a timber post and rail fence. Given the existing development on the land, it is undisputed by the main parties that the site qualifies as previously developed land.
10. The proposal would include the removal of all buildings on the site and their replacement with a single storey dwelling and detached car port, utilising the same access from Edge View Lane, off Gore Lane. Under the provisions of paragraph 154 g) of the Framework, whether the proposal would constitute

inappropriate development will depend on whether it would have a greater impact on the openness of the Green Belt than the existing development.

11. 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'.
12. Several factors are capable of being relevant when it comes to applying and assessment of openness to the particular circumstances of a specific case. The matters relevant to openness are a matter of planning judgement and openness has a spatial aspect as well as a visual aspect.
13. From the evidence before me, including the tabulated measurements provided by both main parties, the proposed dwelling would be of similar footprint and height to the existing buildings. While the Council assert that the eaves height of parts of the existing buildings are lower than that proposed, this relates to the south elevation facing a belt of trees. In any event the difference would be minimal, and the overall height of the proposed building, at 3m, would be low and no more than that of the existing building. While the chimney would be a sizeable addition to the western elevation of the dwelling, it would not protrude notably above the ridgeline.
14. Notwithstanding the information provided by both parties, a conclusion on the effect on openness cannot be arrived at purely on a mathematical calculation as a single factor. Whilst the proposed dwelling would be very different in appearance, its contemporary style has been designed to reflect the existing buildings in scale, with a similar footprint.
15. The car port would result in a spread of built form on the site towards the access. However, the appellant's calculations point to a reduction in overall volume of built form on the site when the overhang on the existing buildings is taken into account. This has not been contested by the Council.
16. The proposed dwelling would be positioned slightly further away from the southern boundary of the site than the existing buildings. However, it would still be sited within the confines of the existing hardstanding area. Furthermore, the inclined topography of the adjacent field compared to the flatter ground level of the appeal site and surrounding trees and vegetation would mean that that the modest re-positioning of the building would not be overly perceptible. Therefore, in spatial terms, the effect of the proposed building on the openness of the Green Belt would be similar to that of the existing stables and store.
17. In visual terms, the appeal site is located alongside a Public Right of Way - Bridleway Chorley BR30 (BR30), part of which would be used for access to the site. From my observations on site, the existing stables and associated grazing field and loose boxes can be glimpsed in views between the trees and vegetation when using BR30, particularly when travelling south, due to the slope of the path. The existing arena is less visible, because of an absence of buildings on this part of the site and due to its distance from BR30.
18. Like the combined stables and store, the proposed dwelling would be long, and proportioned in a similar way to replicate two separate buildings connected by a central flat roof glazed element. The chimney would be contained to the west elevation, furthest from the entrance to the site and screened to a degree by

the building itself. The car port would be open-sided and positioned close to gable elevation of the dwelling such that it would appear as part of the building. While the design of the proposal would include a good deal of glazing, the predominant external facing material would be timber cladding which would respect the rural context of its location. The proposed driveway would be located in the same position as the existing parking area used for the stables and thus would not be visibly conspicuous.

19. I find that the proposed dwelling would be of a similar scale and height to the existing stables and despite its slight re-positioning within the area of hardstanding, it would not be obtrusive in its setting when viewed from BR30. The dwelling would still be positioned against the backdrop of a belt of mature trees at the lowest point of the field. Furthermore, in views from the entrance to the appeal site, closer to the building, the linear form of the proposed dwelling would side, rather than front onto BR30, thereby limiting the appearance of built form.
20. Public Right of Way Chorley 10 (PROW) passes close to the west of the appeal site. However, given this PROW and the site are separated by a field and dense hedgerows, views of the existing development are not readily obtainable. Due to screening provided by surrounding trees and vegetation and the low height of the building, any views from this PROW would not be significantly altered as a result of the proposed development. The appeal site is not clearly visible from views to the south due to the existing belt of trees along this boundary.
21. On the above basis, when considering the proposed building taken on its own, in visual terms, even when the site would be more visible during the months when leaves would not be on the trees, the visual effect on the openness of the Green Belt would be similar to that of the existing stables and store.
22. Notwithstanding the above, the proposal also includes the creation of a lawned domestic garden adjacent to the proposed dwelling. I note the amendment to the red edge boundary of the application site in this regard during consideration of the planning application. The garden would be located on land currently used as an equestrian arena. The appellant's Landscape and Visual Appraisal² (LVA) suggests that whilst there would be an obvious and immediate change in the character of the existing site there would be opportunities to improve the landscape condition of the site. In this regard, an area of landscaping is indicated within a blue edge that would incorporate a pond and wildflower meadow on part of the land currently used for the grazing of horses.
23. The proposed lawned garden area is sizable and its use for residential purposes would almost inevitably lead to an unavoidable domestication of the site and the intrusion of paraphernalia such as garden furniture, play equipment, lighting and the like. The lack of any secure external storage within the scheme would also be likely to mean that such items would remain within the garden, impacting on the openness of the countryside. Whilst permitted development rights could be controlled or removed were the appeal to be allowed, the garden would still be likely to be used to accommodate day-to-day items such as bin storage, washing lines and play equipment.

² Landscape and Visual Appraisal, PGLA Landscape Architects, September 2023

24. However, this part of the site is already a non-grass surfaced arena and I observed that it contains equestrian paraphernalia such as jumps and is bound by a timber post and rail fence. A midden and various other equestrian-related items including horse boxes are also stored elsewhere on the site. Overall, domestic items in the garden would be generally low level and not dissimilar to the existing equestrian paraphernalia. Furthermore, the visual effects of such items would be moderated to a degree by the presence of mature trees and vegetation along the boundaries of the site and the proposed landscape enhancements. Provided this area is differentiated by boundary treatment as indicated on the plans, so as to clearly separate it from the wider proposed pond and meadow area in order to prevent any sprawl outside the current arena, I am satisfied that, in this instance, a sense of openness would remain that would not be dissimilar to the existing development.
25. I do however share the Council's concern regarding the proposed entrance gate fronting Edge View Lane as shown on the submitted plans due to its solid, urbanising appearance. However, this matter can be effectively dealt with by way of an appropriately worded condition were I to allow the appeal.
26. To conclude, I consider that the character of the site would change as a result of the proposed residential use of the building and land. Nevertheless, the redevelopment of the site as proposed would not have a greater impact on the visual or spatial openness of the Green Belt than the existing development. Accordingly, the proposal would not be inappropriate development in the Green Belt having regard to the test at paragraph 154g of the Framework. It would not conflict with Policy PG3 of the CELPS which seeks to protect the Green Belt from inappropriate development.

Very special circumstances

27. As I have found that the proposal would not be inappropriate development in the Green Belt, it is not necessary to consider 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.

Other Matters

28. I have given careful consideration to representations made about the proposal that have not been referred to in the Council's reason for refusal.
29. Concerns have been raised by interested parties in relation to highway matters. These include increased traffic and use of the vehicular access along CB30, both during construction and once the proposal has been completed and occupied. Particular concern has been expressed in relation to the potential for subsequent conflict between vehicles, pedestrians, cyclists and horse-riders. Given the proposal is for one dwelling, that the existing equestrian site is already accessed along this track and that neither the relevant consultees nor the Council have objected to the scheme, there is no substantive evidence before me that harm would arise with respect to this matter. Whilst the construction process is likely to be disruptive it would be short-term and is not a reason to withhold permission.
30. No evidence has been provided to substantiate the claim that the site is agricultural due to the keeping of hens. Neither is there any objective evidence

that the proposal would give rise to an unacceptable increase in noise. Concerns in relation to drainage are noted but are not shared by consultees or the Council and do not therefore alter my conclusions on the main issues.

31. Matters related to damage or rights to pass over land, including the access, would be separate to and would not ultimately influence the assessment of the planning merits of the proposal.
32. Concern has been conveyed that the granting of permission at the appeal site would set a precedent for other similar development in the area. In this regard, from the information submitted with the appeal, I am aware of planning permission granted for a dwelling at Woodmoss Farm³, on the opposite side of Edge View Lane, albeit I have not been provided with the full details of this case. Regardless, this appeal has been dealt with on its own merits and has been found to be acceptable for the reasons given above. The decision would not set a precedent for the area, as each proposal must be assessed on its own merits and the particular circumstances of the site.

Conditions

33. I have considered the suggested conditions from the Council and had regard to the Framework and the Planning Practice Guidance in terms of the use of planning conditions. I have undertaken some editing and rationalisation of the conditions suggested by the Council in the interests of precision and clarity. Some conditions require matters to be approved before development commences. This is necessary either to control impacts that would arise during construction or because the details to be approved could affect the scheme in a way that would need to be resolved at an early stage. The appellant has provided written agreement to the pre-commencement conditions.
34. In addition to the standard time limit condition, it is necessary to specify the approved plans in the interest of certainty. In order to protect the character and appearance of the area, a condition ensuring that the development is carried out in accordance with the approved materials is necessary.
35. Condition relating to landscaping are necessary in order to protect the character and appearance of the area and in the interests of biodiversity. I have included the provision of details relating to the boundary treatment around the domestic garden within these conditions in order that the residential use is clearly defined and in the interests of the appearance of the area.
36. The Council's suggested conditions relating to ground contamination have been combined. This and a condition relating to soil contamination and potential remediation, a verification report and a protocol if unexpected contamination is found are needed to ensure that the proposed development is safe for its future residents.
37. A condition requiring the management of traffic along Public Right of Way BD30 during and after construction is necessary in the interests of highway safety. However, I have removed reference to the line of BD30 being marked out on the site as it does not cross the site. I have also removed reference to a condition survey of BD30 as it is not precise or enforceable.

³ LPA Ref:22/4740M

38. Conditions relating to bird breeding season, biodiversity strategy and tree protection are necessary in the interests of nature conservation.
39. I have considered the Council's suggested condition to restrict permitted development rights in light of advice in the Planning Practice Guidance (paragraph: 017 Reference ID: 21a-017-20190723), which says that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity. Permitted development rights can result in sizeable extensions or outbuildings, but the General Permitted Development Order has not withdrawn such rights (in total or in part) in the Green Belt, and paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so.
40. In this case, while there is no robust justification to remove all the permitted development rights suggested by the Council, I am satisfied that there is clear rationale to restrict the rights in relation to outbuildings due to the sensitive location of the proposed garden, in the interest of preserving the openness of the Green Belt.

Conclusion

41. 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 be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan (undated and un-referenced other than Lambert Smith Hampton logo in top right-hand corner)
 - Drawing No. 281.05-PO9 (Site Plan)
 - Drawing No. 281.05-PO2 Revision C (Ground Floor Plan)
 - Drawing No. 281.05-PO3 Revision C (Elevations)
 - Drawing No. 281.05-PO7 (Car Port Plans and Elevations)
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing no. 281.05-PO3 Rev C and Drawing no. 281.05-PO7.
- 4) The development hereby approved shall not be occupied until a scheme for the landscaping of the site, including hard or soft boundary treatment around the domestic garden, has been submitted to and approved in writing by the Local Planning Authority. The 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 programme.
- 5) The landscaping scheme and implementation timetable approved by condition no 4 above shall be completed in accordance with the following:
 - a) All hard and soft landscaping works, including boundary treatment around the domestic garden, shall be completed in full accordance with scheme and implementation programme approved under Condition 4.
 - b) 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).
 - c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)
 - d) 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) No development (other than demolition and site clearance works) shall commence until the following has been submitted to and approved in writing by the Local Planning Authority:
 - a) A risk assessment and (if appropriate) site sampling exercise is undertaken to address the risks posed by land contamination.
 - b) Should the above indicate that remediation is necessary, a Remediation Strategy, including an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority.
 - c) The remedial scheme shall be carried out in accordance with the approved Remediation Strategy.
 - d) The development hereby approved shall not be occupied until a Verification Report prepared in accordance with the Remediation Strategy approved under Condition 6 has been submitted to and approved in writing by the Local Planning Authority.
 - e) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme which shall first be submitted to and agreed in writing by the Local Planning Authority.
- 7) The development hereby approved shall not be occupied until evidence and verification information (for example: quantity/source of material, laboratory certificates, depth measurements, photographs) in relation any soil or soil forming materials brought to site for use in garden areas or soft landscaping has been submitted to and approved in writing by, the Local Planning Authority.
- 8) No development (including demolition and site clearance works) shall commence until a Public Rights of Way Scheme of Management has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include provision for any proposals for the temporary closure of any Public Rights of Way, along with alternative route provision.
- 9) No removal of any vegetation or the demolition of buildings 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 building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), 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.
- 10) No above ground development shall take place until a strategy for the incorporation of features to enhance the biodiversity value of the proposed development has been 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 and roosting

bats. The proposals shall be permanently installed in accordance with approved details prior to the first occupation of the development.

- 11) The development shall be carried out in accordance with the Arboricultural Method Statement and Tree Protection Specification shown on Cheshire Woodlands Tree Protection Plan Ref: CW/11232-P-TP, the GroundTrax Cellular Confinement System details and Geotrax Installation Guide, Tree Protection Plan Drawing No. 281.05-P04, and Ground Protection Drawing No.001.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking or re-enacting that order with or without modification), no development permitted by virtue of Class E of Part 1 Schedule 2 of the Order shall be carried out.

END OF SCHEDULE