



Appeal Decisions

Site visit made on 7 October 2024

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal A Ref: APP/R0660/C/23/3328876

Land east of Chells Hill, Church Lawton ST7 3FB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Allister Boote against an enforcement notice issued by Cheshire East Council.
- The notice was issued on 2 August 2023.
- The breach of planning control as alleged in the notice is the unauthorised material change of use from an agricultural use to motorsport use.
- The requirements of the notice are to:
 - a) Cease the use of the land for motorsports.
 - b) Level the land to natural ground level by removing earth banks and jumps which have been created.
 - c) Restore the land to the condition it was in prior to its use for motorsports.
- The period for compliance with the requirements are:
 - a) One month from the date the notice takes effect.
 - b) Two months from the date the notice takes effect.
 - c) Three months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld

Appeal B Ref: APP/R0660/X/24/3343171

Land east of Chells Hill, Church Lawton, Cheshire

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Allister Boote against the decision of Cheshire East Council.
- The application ref 23/3382C, dated 4 September 2023, was refused by notice dated 25 October 2023.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the temporary use of the site for moto-cross purposes (for up to 28 days per calendar year) in accordance with Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Summary of Decision: The appeal is dismissed.

Appeal C Ref: APP/R0660/W/23/3323703

Land east of Chells Hill, Church Lawton, Cheshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Allister Boote against Cheshire East Council.
 - The application Ref is 22/3818C.
 - The development proposed is the periodic use of land on an annual basis (up to 56 days per calendar year) for moto-cross purposes, retention of hardstanding and access, access enhancements, and associated works.
 - **Summary of Decision: The appeal is dismissed.**
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Procedural Matters

1. All three appeals relate to the same appeal site, appellant and similar development. Accordingly, to avoid duplication, I have determined all three appeals within this single decision letter.

Appeal A

The ground (b) and (c) appeals

2. I shall deal with the ground (b) and (c) appeals together as the two are inextricably linked, ie both rely on whether I find the use is permitted development under Class B, Part 4, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO).
3. The ground (b) appeal is the alleged breach of planning control has not occurred as a matter of fact. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control. In both grounds of appeal, the burden of proof is upon the appellant.
4. There is no dispute between the parties that the appeal site has been, and still is, used for motorsports. The crux of the matter is whether this use is permitted development by virtue of Class B, Part 4, Schedule 2 of the GPDO.
5. Class B, Part 4, Schedule 2 of the GPDO states 'The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of— (a) the holding of a market; (b) motor car and motorcycle racing including trials of speed, and practising for these activities, and the provision on the land of any moveable structure for the purposes of the permitted use' is permitted development.
6. The appeal site is roughly triangular in shape with an undulating topography comprising steep gradients, particularly to the north and east of the site. Within the confines of the site are areas of woodland along the east and parts of the west boundaries. Running throughout the site is a wide dirt track.
7. Whilst historical photographs indicate the track was initially created through its use by motor vehicles, the current condition of the track has clearly been created/enhanced through the use of heavy plant. This is evidenced by way of the track having a largely consistent levelled surface and a largely consistent width with parts of it having been raised with embankments/bunds on its edges. In addition, parts of the track's edges appear to have been cut away indicating signs of mechanical excavation (notable in the photographs in appendix 5 of the Council's statement of case with nearby tree roots exposed).
8. As a result of the track covering a very large proportion of the site, including through parts of the woodland to the east, and the hardstanding area adjacent to the access gates to the site off Chells Hill, there are very few areas of the site available for livestock grazing. At the time of my site visit, there were approximately 14 sheep contained within a small, electric fenced section of the northern part of the site. There was very limited grazing available for them.
9. In *Ramsey v SSETR & Suffolk Coastal DC* [2002] JPL 1123, it was established that permitted development rights are available for temporary uses, even if

these are facilitated by permanent physical changes to the land, provided the works do not prevent the normal permanent use from continuing for most of the year, and it does so continue. The critical factors are the duration of the temporary use and reversion to the normal use in between times.

10. It cannot be reasonably argued that after each time the land is used for a motor sporting event the track is removed and then recreated for the next event. Therefore, in this instance, the creation of the track is clearly a permanent physical change to the land. For the same reason, so is the hardstanding. The question is whether, as a result of these works, it is difficult or impossible for the site to revert realistically to its previous normal use. In this case, there is no dispute the normal use is agriculture.
11. Given the extent of the track's coverage of the appeal site, there is very little land that could reasonably be used for agricultural purposes. Whilst there were sheep on the site at the time of my visit, they were contained to only a very small portion of the site, which had very little land suitable for grazing. Whilst there are pockets of grass and scrub within the site that could be used for grazing, these are widely dispersed among the large surface area of the track. Having regard to the vast majority of the site, due to the very limited land suitable for grazing I consider that it would be difficult to realistically revert to an agricultural use. As a consequence, a permanent material change of use of the land has occurred from agriculture to motorsport use, regardless of whether motorsport activities take place less than 28 days in a year.
12. I find therefore, as a material change of use of the land from agriculture to motorsport use has occurred, the matters alleged in the notice are correct and the use does not fall to be permitted development under Class B, Part 4, Schedule 2 of the GPDO. The ground (b) and ground (c) appeals fail.

The ground (f) appeal

13. This ground of appeal is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
14. Some of the track follows the natural topography of the land. However, there are significant parts of the track that have clearly been raised through the movement of material. Embankments/bunds have also been created. These are clearly engineered and not part of the natural topography of the site. The requirement to remove earth banks and jumps is in order to remedy the breach of planning control and remedy the injury to amenity. Accordingly, their removal would not exceed what is necessary to remedy the breach.
15. I note the appellant's argument that the embankments/bunds are moveable structures. Whilst there is no definition of what a 'structure' is, in this instance the embankments/bunds cannot reasonably be considered to be moveable. It would not be realistically possible to physically move them from one place to another. They would have to be completely demolished and reconstructed elsewhere. Adopting the appellant's approach, an equivalent scenario would be a brick-built building being constructed, demolished and then rebuilt elsewhere. It would be wholly unreasonable to consider it as a 'moveable structure'.

Therefore, I do not consider the embankments/bunds on site to fall within the GPDO reference to 'moveable structures'.

16. The requirement to cease the use of the land for motorsports would not remove permitted development rights as set out in the GPDO from the land. Accordingly, requirement a) would not exceed what is necessary.
17. Requirement c) requires the land to be restored to its condition prior to its use for motorsports. This is a reasonable step to remedy the breach of planning control and the appellant will likely be the person with the best knowledge of what the previous condition of the land was.
18. I find therefore, the steps required by the notice to be taken, or the activities required by the notice to cease, do not exceed what is necessary to remedy the breach of planning control and the injury to amenity which has been caused by the breach. The ground (f) appeal fails.

The ground (g) appeal

19. This ground of appeal is that the period for compliance is unreasonably short.
20. The appellant states 'the time period for compliance specified in the Enforcement Notice in accordance with section 173(9) falls short of what should reasonably be allowed were there to be a breach of planning control'. As no argument has been made indicating why the period for compliance is unreasonably short, other than they allege no breach has taken place, the ground (g) appeal fails.

Appeal B

21. In accordance with section 192(2) of the Town and Country Planning Act 1990 (as amended) (the Act), the LDC appeal is to be determined on the basis of whether the use or operations described in the application would be lawful if instituted or begun at the time of the application. The LDC application the subject of this appeal was made on 4 September 2023, after the date on which the notice the subject of Appeal A was issued, 2 August 2023.
22. The evidence made in support of the LDC appeal is that the proposed use would be identical to that which is the subject of the notice. It is not proposed that there would be any material alterations to the land.
23. Under Appeal A, I have found a material change of use of the land from agriculture to motorsport use has occurred as it would be difficult to realistically revert the site to its normal use, ie agricultural use. Even if the unlawful material change of use the subject of the notice ceased, the reintroduction of the proposed temporary use for 28 days a year would still utilise the existing site and track. As a consequence, the same unlawful material change of use of the land would reoccur as the land would still be difficult to realistically revert to an agricultural use. Consequently, the proposed use would not fall within Class B, Part 4, Schedule 2 of the GPDO and therefore would not be permitted development.

Conclusion on Appeal B

24. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the temporary use of the

site for moto-cross purposes (for up to 28 days per calendar year) is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

Appeal C

Main Issues

25. The appeal follows the Council's failure to determine the respective planning application. Notwithstanding the lodging of the appeal against their failure to determine the application, the Council's Planning Committee proceeded to determine that the application should be refused. Based on the reasons for refusal set out in the Committee Report, I consider the main issues in this appeal to be:
- Whether the development would be inappropriate development in the Green Belt, including having regard to its effect on the openness of the Green Belt and the purposes of including land within it;
 - The effect of the development on the character and appearance of the area, including the Trent and Mersey Canal Middlewich - Kent Green Conservation Area;
 - The effect of the development on ecology, with particular regard to trees;
 - The effect of the development on nearby listed buildings and a non-designated heritage asset;
 - The effect of the development on the living conditions of the occupants of nearby residential properties, with regard to noise and disturbance; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Background

26. The appellant contends that the baseline conditions of the site should be considered in the context of what is taking place now is permitted development and the proposed use should be compared to that. However, as I have found under Appeals A and B, the existing use of the site is not permitted development. Whilst the use of the site for motorsport activities may have been in the past permitted development, based on the evidence before me, it is not clear as to what the condition of the site was when it in such use. The 2016 aerial photograph shows signs of a dirt track on the site. However, it was far less developed than what exists now, with the track appearing to be limited to where the motor vehicles passed over the land creating a more informal track. The current track appears to be substantially wider and formal, likely created by heavy plant rather than simply through the passing of motor vehicles.
27. Accordingly, as the current use of the land is not lawful, I cannot use this as a baseline against which to compare the proposed use. Whilst I can consider it

against the condition of the site in 2016, due to the substantial difference in the formality and scale of the track between 2016 and now, this bears limited weight in favour of the proposal.

Inappropriateness

28. The appeal site is located within the Green Belt. Paragraph 155 of the National Planning Policy Framework (the Framework) identifies certain other forms of development, to those set out in paragraph 154, that are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Exception e) is the material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).
29. Policy PG3 of the Cheshire East Local Plan Strategy (CELPS) 2017 similarly sets out certain forms of development that would not be inappropriate development in the Green Belt. However, it does not include material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) and therefore is not consistent with the Framework. Although it refers to the 'provision of appropriate facilities for outdoor sport', this is in the context of new buildings. The proposal does not include for a new building. Accordingly, in line with paragraph 225 of the Framework, I attribute limited weight to Policy PG3.
30. The proposed use of the land would be for outdoor sport and therefore satisfies the first part of exception e). The question is whether the proposed development would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
31. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean there is no impact on the openness of the Green Belt.
32. In terms of the visual dimension of openness, although the proposal would not have any permanent buildings associated with it, the wide dirt track covering much of the site is clearly visible. Although it largely follows the natural, undulating topography of the site, it nevertheless has a clearly artificial, engineered appearance that appears visually intrusive against the natural setting. This would be retained even when the site is not being used. Moreover, when the site is in use for motorsports activities, the presence of motor vehicles, spectators and vehicles parking on the hardstanding area would be visually prominent, particularly in the context of its natural setting in comparison with the lawful agricultural use.
33. Even if a temporary use was taking place on the site in accordance with Class B, Part 4, Schedule 2 of the GPDO, it would only be for a maximum of 28 days per year. The proposed use would be up to double this, thus the visual harm as a result of the activities associated with the use would be more frequent and the use of the site would be seen as more of a permanent nature rather than that of a temporary nature. Therefore, the visual harm would be significantly greater.

34. In terms of the spatial dimension of openness, as the dirt track largely follows the topography of the site it would not have any harmful effect. Similarly, the hardstanding would be level with the ground and therefore would also not have a harmful effect. Notwithstanding this, the introduction of the activities mentioned above on the days the site is used would diminish the spatial dimension to some extent. Given the temporary nature of these activities, and that the vehicles would be removed from the site after each event, this harm would only be moderate.
35. Paragraph 143 of the Framework sets out the five purposes of including land within the Green Belt. One such purpose is to assist in safeguarding the countryside from encroachment. The appeal site is within the countryside. As I have set out above, the proposal would be visually intrusive and introduce a form of development that would encroach into the countryside.
36. I find that the visual intrusion of the use and its associated activities and the erosion, albeit moderate, of three-dimensional space arising from its associated activities, would result in the erosion of openness, which would conflict with paragraph 142 of the Framework which identifies openness as an essential characteristic of Green Belts. In addition, it would conflict with the purposes of including land within it, in particular safeguarding the countryside from encroachment, as set out in paragraph 143 of the Framework.
37. I find therefore the development would lead to a significant loss of Green Belt openness and conflict with the purpose of including land within it and as such would fail to accord with the exceptions under Paragraph 154 of the Framework. Consequently, it would be inappropriate development, which, by its very definition, is harmful to the Green Belt and should not be approved except in very special circumstances.¹ Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt.

Character and appearance

38. The appeal site is surrounded by open fields and woodland, intersected by the canal that lies adjacent to the northern boundary of the site. The open, tree-lined site makes a positive contribution to the peaceful, semi-rural setting.
39. As I have set out above, the dirt track has an artificial, engineered appearance that scars the land. This can be clearly seen from Chells Hill. Although my site visit was carried out in late autumn when there was little vegetation in leaf and the surrounding ground was wet and muddy, the track clearly stands out from the surrounding natural environment and appears as a dominant feature in the landscape.
40. The activities associated with the use, including vehicles, both racing and for transport, and the noise generated by them would exacerbate the incongruity of the site in what is otherwise a largely, peaceful countryside setting. This would be particularly discernible to users of the canal and tow path, from where the noise of the motor vehicles would likely significantly disrupt the otherwise peaceful character of the area.
41. Even if a temporary use was taking place on the site in accordance with Class B, Part 4, Schedule 2 of the GPDO, it would only be for a maximum of 28 days

¹ Paragraph 152 of the Framework

per year. The proposed use would be up to double this, thus the visual harm as a result of the activities associated with the use would be more frequent and the use of the site would be seen as more of a permanent nature rather than that of a temporary nature. Therefore, the visual harm would be significantly greater. Moreover, if it were operating under permitted development rights, the dirt track would likely have to be substantially reduced in size, which would result in it having a significantly reduced visual effect on the appearance of the area than the proposed.

42. The appeal site lies just outside the Trent and Mersey Canal Middlewich Kent Green Conservation Area (the CA), which runs adjacent to the northern boundary of the appeal site. The canal is characterised by single-span brick road and accommodation bridges with stone copings. Other features such as early nineteenth century cast iron mileposts and ironwork features such as bridge plates and strapping posts can be found along the canal. The significance of the CA derives from the historical and architectural value of the canal corridor and the features within it.
43. Given its nature, the canal has varying relationships with its surrounding environment. For example, the pottery industries it would have historically served, and in some cases still does, have a greater contribution to the significance of the CA than the land it merely passes through/by. The appeal site is not, and never has been, served by the canal; it merely passes by it. Therefore, the appeal site provides very limited contribution to the heritage significance of the CA. Nevertheless, the site shares a boundary with the canal tow path and there is some intervisibility between the two through gaps in the boundary hedge/trees and therefore it does make some, albeit limited, contribution to the appearance of the CA. When the trees and hedges are in leaf, the site would largely be screened from views from the tow path. In the winter months views would be possible, albeit limited.
44. The proposal would not introduce any built form onto the site other than the hardstanding area, which would be sited to the south of the site and therefore would not be readily visible from the tow path, even when in use for parking. The dirt track would be visible, but only limited sections of it, due to the topography of the site and natural screening of the boundary hedge. Therefore, the proposal would have no adverse effect on the appearance of the CA.
45. In terms of the effect of noise generated by the use, this would be clearly audible from the canal and tow path. Users of the CA would generally be moving along the canal or tow path, appreciating its physical features and surrounding environment. Although the canal provides a sense of tranquillity, particularly in the rural areas it passes through, that does not form part of its significance. I do not consider that that noise from the site would harm the significance of the CA.
46. I find therefore, whilst the proposal would not harm the CA, it would significantly harm the character and appearance of the area, contrary to Policies SE4 and SD2 of the CELPS, which, amongst other things, seek to ensure development conserves the landscape character and quality and contribute positively to an area's character. It would also fail to accord with the design objectives of the Framework.

Ecology

47. The proposed extension to the existing hardstanding area for parking would be located along the western boundary, adjacent to the entrance to the site. Along this boundary are a number of trees identified on the Phase 1 Habitat Map appended to the appellant's Extended Phase 1 Habitat Survey, dated April 2022 as 'Semi-natural Broad-leaved Woodland' and on the topographical land survey drawing.
48. The appellant states that no trees would be lost as part of the proposed works and therefore an arboricultural impact assessment is not required. However, the proximity of the boundary trees to the hardstanding area suggests there is a reasonable likelihood that significant damage could be caused to the roots of these trees, potentially leading to the loss of the trees, through the creation of the hardstanding. I note the Proposed Site Plan includes no trees on this boundary with the road. Furthermore, the hardstanding area appears to go right up to the boundary with the road, leaving no space for the existing trees. In the absence of any evidence to confirm what the effect on these trees would be, it is not possible to conclude that there would be no harm to them.
49. I acknowledge that the track has been in use for a long time and any further damage to trees by way of soil compaction is unlikely to occur. Furthermore, the implementation of the mitigation measures as proposed, including the use of chestnut style fencing to demarcate the tracks in the woodland, around the ponds and adjacent to the river, would help prevent any further harm caused to habitats. Nevertheless, this does not alleviate the above concerns regarding the road boundary trees.
50. I find therefore, based on the evidence before me, it has not been satisfactorily demonstrated that the proposed development would not have an unacceptable harmful effect on trees and the habitat they provide. As such, it fails to comply with Policies SE3 and SE5 of the CELPS and Policy ENV6 of the Cheshire East Council Local Plan Site Allocations and Development Policies Document 2022 (SADPD), which seek to protect trees and habitats. It would also fail to accord with the Framework's objective of protecting trees and habitats.

Listed Buildings and the non-designated heritage asset

51. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBC Act) requires that special regard shall be paid to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it possesses.
52. Within proximity of the appeal site and within the CA, there are two Grade II listed buildings (a Trent and Mersey Canal Milepost and a Trent and Mersey Canal Bridge) – and a non-designated heritage asset (a road bridge (aqueduct)).
53. The canal milestone is made of cast iron, painted black and white, and is one of many that line the canal. Its significance derives from its historical value as part of the canal network. Its setting is limited to the immediate vicinity of the milestone itself, with it not being appreciated when out of view. As there

is no intervisibility between them, the appeal site makes no contribution to the setting of the milestone.

54. The canal bridge is an accommodation bridge located to the north west of the appeal site on the opposite side of Chells Hill and provides access from Chells Hill Farm to the field on the opposite side of the canal. Its significance derives from its historical and architectural value as part of the canal network.
55. The appeal site is some distance from the bridge and there is no intervisibility between them. Due to the distance and lack of intervisibility between them, it is not possible to appreciate the relationship between the bridge and the canal from the site. Therefore, the appeal site does not contribute to the setting of the bridge.
56. The road bridge, which is a non-designated heritage asset, carries the canal over Chells Hill. Although its heritage value is low, it makes a positive contribution to the CA due to it being an historical and functional feature of the canal. Parts of the bridge are visible from the site. However, these are glimpsed views of the top parts of the bridge through the hedging in the topmost northwest corner of the site. Although the boundary hedge of the site provides a backdrop to the bridge, the appeal site does not make a contribution to its significance.
57. Due to the lack of intervisibility between the appeal site and the above heritage assets and its current lack of contribution to their settings, the proposal would have no effect on the significance of them. Any visual changes to the site, including when activities are taking place, would not result in any visual changes to the heritage assets' settings. When the site is in use, noise would likely be discernible from the settings of the heritage assets. However, this would be heard in the context of other nearby noise sources, including traffic on Chells Hill and the farming activities taking place on Chells Hill Farm.
58. Given the above, I conclude that the proposal would preserve the setting of the listed buildings and the non-designated heritage asset, thus satisfying the requirements of the LBC Act, paragraphs 201 and 205 of the Framework and Policy SE7 of the CELPS and Policies HER1, HER3 and HER4 of the SADPD, which seek to protect heritage assets.

Living Conditions

59. A noise assessment was carried out by Acoustic & Engineering Consultants Limited, dated 21 September 2022. The assessment found that, subject to mitigation measures, the proposal would not cause any unacceptable harm by reason of noise. The Council's Environmental Health Officer (EHO) raised no objection to the proposal on this basis. The Council contend that the EHO considered the proposal on the basis of whether the proposal would cause a statutory noise nuisance. The assessment of whether it would cause harm to the living conditions of residence is a lower threshold. Nevertheless, the noise assessment was carried out in accordance with World Health Organisation (WHO) guidelines², which provides levels for specific environments that indicate the threshold of moderate and serious annoyance for the daytime

² Guidelines for Community Noise, 1999

period. It was not, therefore, simply assessing whether the proposal would cause a statutory nuisance.

60. The Council does not dispute the figures in the noise assessment and, based on the evidence before me, I find no reason to conclude otherwise. I acknowledge the concerns raised by numerous local residents regarding noise generated by the use of the site. As set out in the noise assessment, noise would be perceptible from nearby residential properties. However, with mitigation measures in place, this would not be harmful to the living conditions of the occupants of these properties.
61. The proposed mitigation measures include a noise management plan, including limiting the number of users on the track at any one time and ensuring motor vehicles are fitted with silencers. The hours of operation would also be restricted. I find no reason why such matters could not be secured by way of appropriately worded conditions, if I were minded to grant planning permission. The Council question the enforceability of such conditions in that they would require 'significant surveillance'. However, such conditions are commonplace. As with all conditions, there is an element of trust that they would be complied with. It is only if there is a suspicion that they are not being complied with would the Council likely need to carry out surveillance.
62. I find therefore, the proposal would not have an unacceptable harmful effect on the living conditions of the occupants of nearby residential properties, with regard to noise and disturbance. As such, it would comply with Policy SE12 of the CELPS and Policies HOU12 and RUR6 of the SADPD, which seek to protect the amenity of nearby occupiers. It would also accord with the design objectives of the Framework, with regard to protecting the living conditions of neighbouring residents.
63. The Council also rely on Policy SE7 of the CELPS. However, this policy relates to the Historic Environment, not living conditions. Accordingly, in regard to this main issue, I find this policy is not relevant.

Other Considerations

64. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I turn now to address other considerations that, potentially, might clearly outweigh harm arising from the inappropriate development in the Green Belt through the erosion of its openness and conflict with the purpose of including land within it so as to provide the very special circumstances required to justify a grant of planning permission.
65. The proposal would improve the existing highway access from Chells Hill. However, given that it would only be utilised by the proposed use for up to 56 days a year, this reduces the weight I attach to this benefit.
66. As evidenced in the letters of support, the proposal would provide a valued outdoor recreational facility in the locality, which weighs in its favour. However, there is no evidence before me that such a facility could not be located in a more suitable location. Moreover, it would only be available for

use on a limited number of days and would accommodate only a limited number of people at a time. Accordingly, I attribute this benefit limited weight.

67. The appellant states that the proposed use would reduce the level of anti-social behaviour in the area. However, there is no evidence before me of existing anti-social behaviour or how the proposal would reduce it. Accordingly, I attribute this matter very limited weight.

Other Matters

68. The appellant refers me to two previous appeal decisions³. In the case in Bodenham, the Inspector found the site was well screened from public views. That is not the case with the appeal before me. The appeal site is clearly visible from Chells Hill. In the Odiham case, the site was already operating under permitted development rights for 28 days a year. For the reasons I have found under my consideration of Appeals A and B, that is not the case with the appeal site. Accordingly, I find no direct comparison between these two appeals and the appeal before me that weighs in its favour.
69. I note that a planning permission could control certain aspects of the use through conditions compared to the existing use. However, as I have found the existing use is not permitted development and is therefore unlawful, this matter is not attributed any weight.

Planning Balance and Conclusion on Appeal C

70. The development has harmful implications for the Green Belt in terms of inappropriate development, the erosion of its openness and the conflict with the purpose of including land within it. It would also be harmful to the character and appearance of the area and to ecology.
71. Whilst the proposal would not harm any heritage assets or the living conditions of neighbouring residents, with regard to noise, these are neutral effects that neither weigh in favour of nor against the proposal.
72. The proposal would provide some benefits in terms of highway access improvements and provide an outdoor recreational facility. However, I do not find that these outweigh the significant harm it would have to the Green Belt, the character and appearance of the area and to ecology.
73. I find therefore, the very special circumstances required to clearly outweigh the harm to the Green Belt and all other harms have not been demonstrated. Consequently, the proposal conflicts with Policy PG3 of the CELPS and the objectives of the Framework to protect the Green Belt.
74. For the reasons given above, having regard to the development plan as a whole and all material considerations, Appeal C is dismissed.

Formal Decision

Appeal A

75. The appeal is dismissed and the enforcement notice is upheld.

³ Appeal Refs: APP/W1850/A/05/1182344 and APP/N1730/C/06/2006582

Appeal B

76. The appeal is dismissed.

Appeal C

77. The appeal is dismissed and planning permission for the periodic use of land on an annual basis (up to 56 days per calendar year) for moto-cross purposes, retention of hardstanding and access, access enhancements, and associated works is refused.

A Walker

INSPECTOR