



Appeal Decision

Site visit made on 23 April 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/R0660/C/24/3340824

Land at Cheshire Nurseries, Salters Lane, Siddington, Macclesfield, SK11 9LH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr and Mrs Colin and Emma Egerton of Egerton's Timber and Hardware Ltd. against an enforcement notice issued by Cheshire East Council.
 - The notice was issued on 5 February 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of land from a horticultural nursery to a timber merchant, together with the erection of fencing and gates.
 - The requirements of the notice are to:
 - a) Cease the use of the "the Land" as a timber merchant.
 - b) Remove from "the Land" all non-horticultural items and goods including, but not limited to, fence panels, sleepers, timber, ironmongery and tools.
 - c) Remove from "the Land" the fencing and gates shown in the approximate position edged green on the attached plan marked "Plan B".
 - d) Remove all resultant debris and material arising from compliance with requirements a), b), and c) from "the Land".
 - The period for compliance with the requirements of a), b), c) and d) is 4 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). 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 Act.
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Decision

1. 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 as amended.

Preliminary Matters

2. I have used "Egerton" as the spelling of the appellants' surname and company in the banner heading above, as it is apparent that the spelling given on the appeal form is incorrect.
3. No Council representative was present at the appointed date and time of my site visit. I decided to undertake the visit on an unaccompanied basis, with the appellant and their agent there to provide access only, and I was able to see all I needed to from the unaccompanied visit. I am satisfied that neither party has been prejudiced by this approach.
4. The revised National Planning Policy Framework (the Framework) was published in December 2024. This does not raise any matters that require me to seek representations from the main parties. I have, however, determined the appeal having regard to the revised Framework.

The ground (a) appeal

5. An appeal on ground (a) is that planning permission should be granted for what is alleged in the notice. The main issue is whether the appeal site is a suitable location for the development, having regard to local planning policies.
6. The appeal site is a parcel of land which is predominantly hard surfaced, together with a small number of buildings, located on the southern side of Salters Lane close to the village of Siddington. It is in the open countryside for the purposes of the development plan which comprises the Cheshire East Local Plan (2017) (CELPS) and Site Allocations and Development Policies Document (2022) (SADPD).
7. The breach of planning control alleged in the notice is the material change of use of the land from a horticultural nursery to a timber merchant, together with the erection of fencing and gates. The unauthorised use occupies the northern part of the former nursery, with the fencing and gates situated on the southern boundary separating the site from the rest of the former nursery. The development before me for consideration is the same as that previously applied for and refused planning permission by the Council in May 2022¹ and subsequently dismissed on appeal in April 2023². A further planning application for this use has been submitted to the Council³, but it remains undetermined.
8. The key objective of Policy PG6 of the CELPS is the preservation of the countryside. It only permits development in the open countryside for certain essential or limited purposes appropriate to the rural area. Sub paragraph 3 of the policy sets out exceptions including (ii) for the reuse of existing rural buildings, and (v) for development that is essential for the expansion or redevelopment of an existing business.
9. In relation to exception (ii), the existing small buildings on the site are used by the business, including the office building close to the site entrance. It can therefore be said that the development does involve the reuse of existing rural buildings. However, the use of these is clearly a subsidiary element of the business which predominantly comprises the external storage and display for sale of timber products across the wider site. Therefore, the use of the limited buildings on the site does not provide justification for the development against exception (ii) of the policy.
10. The appellants state that the business was trading in 2020 prior to occupying the appeal site, though there is little detail of its operations at that time to corroborate this. The Company registration shows that it was registered at the appeal site in January 2021 and the trade records show trading from March and April 2021, at around the time that the Council first received complaints regarding the unauthorised development. This evidence does not demonstrate that this was an existing business when it began operating on the site. I am not therefore persuaded that the exception at (v) is applicable as the proposal does not relate to the expansion or redevelopment of an existing business on this site. Therefore, it does not meet the exception at (v), or any of the other exceptions set out in Policy PG6.
11. In response to the previous appeal decision, the appellants have provided additional supporting information including details of the history of the site and the appellants' search for alternative premises. The appellants contend that this is a

¹ Council ref. 21/4137M

² Appeal ref. APP/R0660/W/22/3310871

³ Council ref. 23/2858M

well-established commercial site. However, its former horticultural use falls within the definition of agriculture as set out in section 336(1) of the 1990 Act. Reference is made to its registration as an operating centre for HGVs and trailers, and a waste licence, though the details provided do not demonstrate that the appeal site has been used for these purposes for a prolonged period, and planning permission has not been granted for them. On that basis, the site cannot be regarded as having been a commercial site prior to the unauthorised development taking place.

12. A number of alternative sites were considered and subsequently discounted. However, the details provided are limited to a relatively brief explanation as to why each of the alternatives was unsuitable. The assessment of alternatives lacks sufficient detail in terms of how the search was carried out or how sites were selected for further consideration. One of the alternatives was partly discounted on the basis that its commercial status was unclear, while another is described as being in a remote location. However, similar conclusions could have been drawn in relation to the appeal site. One location was discounted due to its location outside the appellants' customer base, though substantive details of that customer base have not been provided. The appellants' approach to the search of alternative sites may therefore have been overly restrictive in this regard. Moreover, the search with local agents appears to have been largely carried out in the three months prior to the submission of the latest planning application. Therefore, on the basis of the evidence before me, I cannot be satisfied that alternative sites have been comprehensively assessed.
13. Paragraph 89 of the Framework sets out that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. However, in this case, the products for sale are not manufactured on the site and the storage and sales element of the business could take place in a more accessible and sustainable location. The appellants have not therefore demonstrated that the nature of the business means that a countryside location is essential, in accordance with Policy RUR10 of the SADPD.
14. The appellants have referred to examples of other rural businesses operating in the local area. As I do not have substantive details of these developments before me, including their planning history, I am not satisfied that they are comparable to the appeal scheme which I have assessed on its own merits.
15. For the above reasons I conclude that the appeal site is not a suitable location for the development, having regard to local planning policies. It conflicts with Policies PG6, MP1, SD1 and SD2 of the CELPS and Policy RUR10 of the SADPD which seek, among other matters, to protect the natural environment and restrict development within the countryside to certain essential or limited purposes appropriate to the rural area.

Other Matters

16. The Council has raised no concerns with regard to the effect of the development on the character and appearance of the surrounding area, the living conditions of nearby occupiers or highway safety. I do not disagree with that assessment based on the evidence before me and my observations of the site and its surroundings. However, these are not benefits weighing in favour of the proposal.

17. The development supports a rural business and provides minor economic benefits, including supporting its supply chain and a small number of jobs. Some of the third party letters of support show that the business is valued by customers, some of whom live locally, and many of which refer to it being a family run business offering excellent service and high quality timber products. I have also considered that the development is a more effective and efficient use of a previously vacant site which the Framework promotes. While I have attached some weight to these matters, for the reasons set out above, I am not persuaded that the appeal site is the only option for the development to take place or that these benefits could not be realised elsewhere in a more sustainable location. Consequently, the benefits of the scheme do not outweigh the harm I have identified or the conflict with the policies of the development plan.
18. Although the appellants do not consider that any “breach of planning” arises from the proposal, there is no ground (c) appeal and no dispute between the parties that the unauthorised development requires planning permission. I have not, therefore, considered this matter further.
19. The appellants have raised concerns regarding the Council’s handling of the matter, including serving the enforcement notice without warning, though this is a procedural matter which does not impact on my assessment of the case.

Conclusion

20. The development conflicts with the policies identified above, and the development plan as a whole, and there are no other considerations to indicate that I should take a different decision other than in accordance with this.
21. I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

M Ollerenshaw

INSPECTOR