
Appeal Decision

Site visit made on 3 July 2017

by V Lucas-Gosnold LLB MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 July 2017

Appeal Ref: APP/R0660/W/17/3173101

Land adjacent to Sandicot, Wood Lanes South, Adlington, SK10 4PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mrs Horrobin against the decision of Cheshire East Council.
 - The application Ref 16/2615M, dated 27 May 2016, was refused by notice dated 29 September 2016.
 - The development is a vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development that is the subject of this appeal has already been carried out. Retrospective permission is therefore sought.
3. Whilst the Council officer's report states that there is no planning history for the appeal site, a letter sent to the appellant by a Council enforcement officer states that planning permission was previously granted in April 1977 for the formation of a vehicular access at the appeal site. The appellant has stated that in the late 1970s a telegraph pole was moved and a letter from a workman confirming this has been submitted with the appeal. A tree was also removed at the same time. However, no further works were undertaken due to personal circumstances.
4. The Council has taken the view that moving a telegraph pole and cutting down a tree does not amount to a lawful commencement of the 1977 planning permission and that the previous permission has therefore lapsed. On that basis, they requested that a planning application for the development be submitted. An application was submitted in May 2016 and this appeal relates to that application.
5. I have taken account of the fact that permission for a similar scheme to the development before me was previously granted permission in 1977. However, given that it was granted over 40 years ago, circumstances on the ground will have inevitably changed along with the relevant local and national planning policies. I therefore attached limited weight to the 1977 permission in my determination of this appeal.

Main Issues

6. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework (Framework);
- The effect of the proposal on highway safety; and
- If the proposal would be inappropriate development 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 it.

Reasons

Whether inappropriate

7. The development that has taken place involves the creation of an access point to serve a small plot of land. A wooden gate has been erected along with associated hardstanding. The appeal site is within the Green Belt.
8. No specific Green Belt policies were identified on the Council's decision notice. Rather it refers to the National Planning Policy Framework (Framework). I shall therefore determine this appeal in accordance with the Framework. Paragraph 90 of the Framework lists forms of development that are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. These include engineering operations.
9. The development that has taken place can be considered as engineering operations and the Council assessed the scheme on that basis.
10. An opening in the hedgerow has been created and a gate erected where none existed previously. Hardstanding has also been laid down to form the access and track. As a matter of fact therefore development has taken place where none existed previously and this has had an impact on the openness of the Green Belt. The development is next to the highway and therefore visible in public viewpoints along the lane. The materials used to form the hardstanding have also had an urbanising effect on the site and, as a consequence, has resulted in some encroachment of new development in the countryside. I note that the appellant has referred to the possibility of using alternative materials to form the but even so an area of hard surfacing would remain. This would not therefore lessen the harm.
11. The development is therefore harmful to the openness of the Green Belt and conflicts with one of the purposes of including land within it. Whilst the development that has taken place is relatively small scale, paragraph 88 of the Framework confirms that substantial weight should be given to any harm to the Green Belt.
12. Accordingly, I conclude on this main issue that the development is inappropriate development in the Green Belt and would conflict with paragraphs 88 and 90 of the Framework.

Highway safety

13. The appeal site is situated on a narrow country lane with dispersed houses along it. The highway slopes upwards to form a crest approximately 30m to the north-east of the access.
14. Whilst the Highway Authority initially recommended visibility splays, upon undertaking a site inspection it was concluded that suitable visibility splays (horizontal and lateral) could not be achieved due to the proximity of the access to the crest of the hill.
15. The hill does restrict visibility for drivers travelling along the lane approaching the access at the appeal site. Drivers would not necessarily expect to encounter vehicles manoeuvring in and out of the access at this point and vehicles using the access would therefore result in a potential hazard for users of the lane. For vehicles exiting the access point onto the lane, the hill restricts views of oncoming traffic making it difficult to judge whether or not it is safe to manoeuvre onto the highway. This would be likely to risk conflict arising between users of the access and drivers travelling along the lane whilst manoeuvring. For these reasons, I consider that the access as constructed does not provide adequate visibility splays and is therefore harmful to highway safety.
16. As referred to by the Highway Authority, no specific evidence submitted with the application in the form of a topographical survey data or a speed survey to determine whether an appropriate visibility splay could be provided in order to overcome the concerns I have identified.
17. Whilst there may have been an existing pedestrian access point at the site, pedestrians moving in and out of the site do not present the same potential road safety issues as vehicle movements. I acknowledge that there are other existing accesses along the lane. However there is no information before me to indicate when these were created. Road safety is an area that evolves over time as safety standards improve and the numbers of vehicles travelling along the highway increases. As such it is common to find historic accesses that may not conform to the most up to date requirements but that is not a reason to permit new accesses with substandard features.
18. If the access were to be removed, the appellant may have to park on the verge or lane to access the appeal site. However, that reflects the existing situation prior to the creation of the access and there is no evidence before me in the form of road safety data to indicate that the previous arrangements gave rise to specific highway safety concerns.
19. Accordingly, I conclude on this main issue that the development is harmful to highway safety.
20. The Council's decision notice did not refer to any specific development plan policies in relation to this issue. I have therefore determined this issue with regard to the Framework, specifically paragraph 32 which seeks to ensure that development takes account of whether safe and suitable access to the site can be achieved for all people.

Other considerations

21. The appellant has referred to personal circumstances which I have taken account of in my determination of this appeal. In particular, I give weight to the need to consider the appellant's ability to access the land so that they are able to enjoy it.
22. Whilst I note comments have been made regarding potential future uses of the appeal site, in the absence of specific evidence these amount to speculation and carry no weight in the decision making process.

Conclusion

23. By reason of resulting in engineering operations that are harmful to the openness of the Green Belt and conflict with one of the purposes of including land within it, the development is inappropriate development in the Green Belt as described in paragraph 90 of the Framework. Substantial weight should be given to any harm to the Green Belt according to the Framework (paragraph 88).
24. The development proposed would also be harmful to highway safety due to the proximity of the access to the brow of a hill and the restricted visibility for vehicles manoeuvring into and out of the access. This adds to the Green Belt harm that I have identified.
25. On the other hand, I give weight to the personal circumstances of the appellant. However, whilst I am mindful of the desire of the appellant to be able to enjoy their land and to gain suitable access to it, this does not outweigh the harm that I have identified. This is because in addition to the Green Belt harm, the highway safety risk to other road users is a significant concern. I therefore conclude that these other considerations do not clearly outweigh the totality of harm I have referred to. Accordingly, very special circumstances necessary to justify the development do not exist and the proposal would conflict with paragraphs 32, 88 and 90 of the Framework.
26. For the reasons given above, I conclude that the appeal should be dismissed.

V Lucas-Gosnold

INSPECTOR