



Appeal Decision

Site visit made on 13 August 2019 by Ifeanyi Chukwujekwu BSc (Hons) MSC
PIEMA RTPI (Assoc)

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2019

Appeal Ref: APP/P2935/W/19/3230791

**Land adjoining Bramblings, Tranwell Woods, Morpeth, Northumberland,
NE61 6AQ**

- 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 Susan Leffers-Smith against the decision of Northumberland County Council.
 - The application Ref 14/01898/OUT, dated 9 June 2014, was refused by notice dated 25 April 2019.
 - The development proposed is construction of a single detached dwelling house.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The application submitted was in outline with all matters reserved for future consideration. A site location and block plan have been submitted which are illustrative of the appellant's intentions for siting of the proposed dwelling. I will proceed on this basis.

Background information and planning policy

4. There have been several Council decisions approving this proposal, or something like it, which were subsequently quashed by the High Court and Court of Appeal following applications for judicial review¹. These authorities are relevant to the consideration of this appeal. Nevertheless, I will assess the planning merits having regard to current local and national planning policies.
5. Saved Policy S5 of The Northumberland County and National Park Joint Structure Plan 2005 (JSP) relates to the extension of the Green Belt, and there is no dispute that the site falls within the designated Green Belt. Of relevance is Policy C17 of the Castle Morpeth District Local Plan 2003 (CMLP), which relates

¹ CO/6007/2014 *David William Tate v Northumberland County Council and Susan Leffers-Smith* 3 March 2015, CO/178/2016 *David William Tate v Northumberland County Council and Susan Leffers-Smith* 4 February 2016, CO/4198/2016 *The Queen (On the application of David Tate) v Northumberland County Council* [2017] EWHC 664 (Admin) 30 March 2017, C1/2017/1179 *Tate v Northumberland County Council and Susan Leffers-Smith* [2018] EWCA Civ 1519 29 June 2018.

to development in the Green Belt. The parties also refer to the Morpeth Neighbourhood Plan 2016, but its policies are not determinative in this case as it refers to national planning policy when assessing proposals for development in the countryside. The policies cited in the reason for refusal, while not exactly matching the terminology used in the National Planning Policy Framework (the Framework) are broadly consistent with it. Other policies in the CMLP are also discussed in the evidence, but as the reason for refusal relates to the location of the site in the Green Belt, the policies cited on the decision notice are the most relevant for the determination of this appeal.

6. The emerging Northumberland Local Plan (NLP) was submitted for Examination on the 29 May 2019 and the Examination is ongoing. The NLP is at a relatively early stage of its development and attracts limited weight, because it might change in the future.

Main Issues

7. Against all of the above background, these are the following:

- (1) Whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
- (2) the effect of the proposal on the openness of the Green Belt, and
- (3) if it is inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons for the Recommendation - *inappropriate development*

8. The proposal involves the construction of a single storey, five-bedroomed residential dwelling with associated curtilage, parking and access on land adjoining Bramblings. Tranwell Woods is a small settlement, set within an area of open countryside located near Morpeth and separated from the town by the A1 Trunk Road. It is a wooded landscape and includes dwellings of low density, which are set in extensive grounds.
9. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. One such exception is "limited infilling" in villages.
10. The term "village" is not defined in the Framework, nor is it specifically defined by the Development Plan. Having regard to all relevant site and geographical location-specific factors and the submitted evidence, Tranwell Woods can reasonably be regarded as a "village" for planning purposes, given the settlement pattern and the nature of its make-up. The main parties agree on this point. That approach is consistent with the decision of the High Court where, at paragraph 30, HHJ Belcher indicates that the assessment requires a

planning judgement of the decision-maker having regard to relevant facts and circumstances. This finding is further upheld by the Court of Appeal².

11. The Framework does not define what is “limited infilling”. The Courts confirm that whether a proposal would amount to limited infilling is a matter of planning judgement. While the site is surrounded by dwellings on three sides, they are set within very spacious, leafy and landscaped plots. There is extensive woodland to the south, beyond which is open countryside at the former airfield. The site is accessed via a long-shared access, but the surrounding residential properties are set some distance away from the site. As the site does not have a road frontage, it is not a gap in an otherwise built frontage. Furthermore, given its loose-knit rural setting and the spacious grounds of the closest dwellings, it is not a gap within a built-up area. As a result, the dwelling would not, in principle, constitute limited infilling, and it would fall outside of the scope of paragraph 145(e).
12. The appellant makes much of recent appeal decisions exploring the question of the definition of infill development. Appeal decisions are not case-law. Whilst the findings of previous Inspectors are material and there is a need for consistency in the planning process, I am not bound to reach the same conclusions provided there are sound planning reasons for departing from their approach. I have had regard to the previous appeal decision on the site³ where the Inspector found that that proposal did not amount to infilling. In relation to this appeal proposal, I have come to my own conclusion based on the site-specific facts and circumstances.
13. An appeal was allowed in relation to the erection of 3 no. dwelling-houses plus new access road at Station Road, Stannington.⁴ However, the proposals at two different sites and locations are not directly comparable. In Stannington the Inspector found that the dwelling would be aligned with nearby dwellings and would continue the pattern of development by completing an otherwise built up frontage or consolidating a largely built-up area.
14. The site in Abbots Langley⁵ relates to the infilling of a gap between houses fronting a road. The sites at 36 Copthorne Road, Felbridge⁶ and 42 and 44 Copthorne Road, Felbridge⁷ were immediately adjacent to sites that have recently been developed, with the result that there would be continuous development along the road and the continuation of a form of development. Another proposal relates to small-scale development, which fills a gap in an otherwise built-up area and the site was within a ribbon of residential development.
15. The information provided indicates that the proposal at land between The Lodge and Rose Cottage⁸ related to a plot within a built-up frontage, while at Land south of the Old School House⁹ it was considered to be ‘limited infill’ within the context of the village of Belsay. The permission at Moor Farm

² C1/2017/1179 *Tate (Respondent) v Northumberland County Council and Susan Leffers-Smith* [2018] EWCA Civ 1519 29 June 2018.

³ Case ref: APP/T2920/A/08/2077934 dismissed 9 January 2009.

⁴ APP/P2935/W/19/3231462.

⁵ APP/P1490/W/17/3183388.

⁶ APP/M3645/W/16/3141780.

⁷ APP/M3645/A/13/2201516.

⁸ Ref 18/02615/OUT.

⁹ Ref 15/03810/FUL.

Estate¹⁰ relates to land that was at least partially previously-developed, the dwellings were to be confined to the existing built form on the site, with a net gain in terms of openness and the appearance of the site. Additionally, a number of permissions have been granted in Tranwell Woods for additional dwellings, including at Silver Birches and Wellhill. However, details of the particular circumstances that led to the approvals are not before me, and it is not clear that they are the same as this appeal. I do not consider that these examples are proposals on sites that are directly comparable or indicate that the appeal proposal constitutes infill development in relation to paragraph 145 of the Framework.

16. I find that the proposed development would constitute inappropriate development in the Green Belt, as it does not meet any of the exceptions listed in paragraph 145 of the Framework.

Openness

17. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. The construction of a dwelling on the site would, in principle, result in built development where there is presently none. The footprint of the building, the associated access and accompanying domestic paraphernalia would change the physical appearance of the site. Inevitably, the development would lead to an appreciable loss of openness in this part of the Green Belt.
18. The appellant argues that the proposal would not be visually prominent, as the site is enclosed by mature tree planting along its boundaries, but concedes there would be harm to openness of the Green Belt. Future occupiers of the dwelling are likely to require an outdoor amenity area for residential use in connection with the dwelling-house. The proposed five-bedroom dwelling would increase domesticity and spread of paraphernalia such as washing line, waste containers, and outdoor furniture. The development would result in additional activity including the parking of additional vehicles within the site. Taken together these factors would have spatial and visual effects on openness.
19. The Council had not previously identified that the proposal would be harmful to openness, when it granted permission. The reasons for this relate to their identified lack of visual impact or harm to the character and appearance of the area. However, given the location of the site and probable siting of the dwelling, the proposal would erode openness. In addition, the development would result in the encroachment of a new building into the countryside and conflict with one of the purposes of designating land in the Green Belt.
20. For all of the above reasons, in principle the nature and scale of residential development would result in material loss in openness of the Green Belt.

Other considerations

21. The appellant suggests the Council cannot demonstrate a 5-year supply of housing land (HLS). On the other hand, the Council states that its Strategic Housing Land Availability Assessment shows it can demonstrate a 5-year HLS against the County's minimum Local Housing Need figure of 717 net additional dwellings per annum, equivalent to 12.1 years' supply of deliverable sites. Northumberland has also achieved 197% delivery against its minimum housing

¹⁰ Ref 17/04475/OUT.

- requirements for the past three years, according to the Housing Delivery Test for 2018. On this basis, and in the absence of any detailed evidence to the contrary, I am satisfied that the Council has a 5-year housing land supply.
22. The appellant also argues that the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework, should be triggered because local policies are out-of-date due to their date of adoption. However, the policies identified by the Council as most important for determining this appeal are all broadly consistent with the aims of the Framework and bearing in mind the advice at paragraph 213, they should not be considered out-of-date simply because they were adopted prior to its publication.
23. The proposal would provide social and economic benefits although these would be limited in scale. As it is a single dwelling, the contribution it would make in these respects would be limited and carry some moderate weight in favour. The development would contribute to local housing stock, although a single dwelling is likely to add to the supply of housing in a limited way. It would thereby also provide some limited support to services and facilities in nearby settlements.
24. The appellant considers that the proposal would be beneficial to the local landscape, being located in an existing clearing that would not lead to the loss of trees. It would allow the management of the adjacent woodland which would bring ecological and arboricultural benefits, to which the County Ecologist has no objection. The appellant asserts that the proposal would not be harmful to the character and appearance of the area, highway safety or the living conditions of neighbouring occupiers. However, the lack of harm in these regards are neutral considerations that do not weigh in favour of the proposal.
25. As I have already said elsewhere, there have been several planning permissions for dwellings in Tranwell Woods in recent years. The appellant identifies that these new dwellings have assisted in providing high quality housing that allows investment in the area and boosts the local economy, and this proposal would be consistent with the pattern of development that has evolved. The site is in a sustainable location where it would support services and facilities in nearby settlements, and provide an opportunity for a self-build house, in accordance with the Framework. For consistency's sake, I am not aware of the full circumstances that led to these permissions. It is not clear to me that these other developments are directly comparable to this appeal proposal. They are not a consideration that weighs significantly in favour of the proposal.
26. I recognise that the Council has previously approved the application, but these decisions have been quashed and do not indicate that the application must, inevitably, be approved. This argument carries little, if any, weight in favour.

Planning balance

27. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is given to any harm to the Green Belt. 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.

28. The proposed development would constitute inappropriate development which carries substantial weight. Additional weight is given to the harm to openness. The development would conflict with at least one purpose for designating land inside the Green Belt, which is a serious planning objection. The development conflicts with local and national planning policies referred to above.
29. The development would provide limited economic and social benefits and would make a modest contribution to the housing stock. I give limited weight to the other planning permissions granted for dwellings in Tranwell Woods and developments cited in support. But the scheme would bring moderate benefits in terms of the management of the surrounding woodland and arboricultural benefits. Nonetheless, residential development of the site would not, subject to reserved matters, be harmful to the character and appearance of the area, highway safety or the living conditions of neighbouring occupiers. These factors neither way for or against the outline application.
30. In my planning judgement, the advanced considerations in support of the appeal, whether taken individually or cumulatively, do not, on balance, clearly outweigh the conflict with planning policies designed to protect the Green Belt. There are no very special circumstances to justify the grant of planning permission.

Conclusion and Recommendation

31. For the reasons given above and having had regard to the evidence before me, I recommend that the appeal should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

32. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree and conclude that the appeal should be dismissed.

A U Ghafoor

INSPECTOR