
Appeal Decision

Site visit made on 23 November 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Appeal Ref: APP/N3020/W/20/3257421

10 Nottingham Road, Ravenshead NG15 9HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ken Merritt against the decision of Gedling Borough Council.
 - The application Ref 2019/1029, dated 5 November 2019, was refused by notice dated 10 February 2020.
 - The development is a proposed ancillary dwelling to existing garden plot.
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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.

Application for Costs

3. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Main Issues

4. The main issues are:
 - i. Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy, including an assessment of the effect of the proposal on the openness of the Green Belt;
 - ii. The effect of the proposed development upon the character and appearance of the site and surrounding area, having regard to the removal of Tree Preservation Order (TPO) trees; and
 - iii. If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is 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

5. Paragraph 143, of the Framework, states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Similarly, Policy 3 of the Greater Nottingham Aligned Core Strategies (2014) (ACS) seeks to protect the Green Belt in principle. The appellant has drawn my attention to paragraph 3.3.7 of the supporting text of this Policy. However, this is not applicable to the scheme before me as Ravenshead is not a village washed over by the Green Belt.
6. Paragraph 145 of the Framework sets out a list of exceptions which are deemed not to be inappropriate. These include (e) limited infilling in villages and (g) 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.
7. The main parties dispute whether the appeal site is located within the village. The appellant has drawn my attention to an appeal judgement¹. In that case it was common ground between the parties that the boundary of a village defined in a local plan would be a relevant consideration in determining whether or not a proposed development constitutes limited infilling in a village but it would not necessarily be determinative. Thus, consideration should also be given to the situation 'on the ground' as well as relevant policies.
8. A settlement boundary does not necessarily cover the full extent of a village nor be limited to its built form. The appeal site is located outside the black dashed line of the Policies Map. I acknowledge that the dashed line is not identified in a key, the Ravenshead label is outside the circled area, and there are a large number of properties outside the line. However, on a reasonable interpretation of the map, it seems clear that the main bulk of the village is contained within the dashed line, as indicated by the white background and lack of any colour shading. Areas outside the dashed line are covered in a green background which is a clear indication that they were considered to fall outside the main built up area.
9. My views in that regard are reinforced by what I observed on my site visit. Development becomes notably more sporadic outside the dashed line. The eastern side of Nottingham Road is significantly more developed than the western side which the site forms part of. The area to the west of Nottingham Road is also wooded in character and the numerous large houses contained within the woodland appear as a parkland estate which has a distinctly different character to the concentrated bulk of the village to the east. There is little visual relationship with the main village and the busy A60 forms a significant visual and physical barrier between the two distinct areas. The dashed line shows a logically drawn area around the main built up area of Ravenshead. Therefore, having regard to the Policies Map and the physical relationship of

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

the appeal site with the existing built development, I consider that the appeal site is located outside the village, albeit in close proximity.

10. Even if the site was judged to fall within the village of Ravenshead, the proposal would not represent limited infilling because the site does not form part of a continuously built up frontage.
11. Visually the site does not read as a clear gap between built development, particularly to the north and west, due to the extent of trees and dwellings set within large grounds. No. 1 Kirkby Road, Haggnook Lodge, (No. 1) to the north of the appeal site is set within large grounds and is well screened from the highway. The map on page 22 of the appellant's appeal statement shows that properties to the north and west have residential curtilages around the dwelling and then beyond a woodland area which provides a visual buffer between the dwellings. As these properties are set within large grounds the distance between them and the appeal site is considerable. Hence, to the north and west, the site visually appears to be surrounded by woodland rather than built development.
12. In contrast, No. 10 and 12 Nottingham Road, to the south, are more conspicuous from Nottingham Road as there are less trees screening these dwellings and they sit closer to the highway. Beyond No. 12 is a water tower and then there is a large break in built development. Consequently, given the separation distance and relationship with the adjacent dwellings, the scheme would not fill a clear gap in an otherwise continuous built-up frontage.
13. For those reasons, having regard to the location of the site and the characteristics of the area, the site would not constitute limited infilling in a village and would not accord with exception (e) of paragraph 145 of the Framework.
14. Policy LPD 15 of the Gedling Borough Local Planning Document (2018) (LPD) is concerned with infill development within the boundaries of previously developed sites in the Green Belt and sets of a closed list of criteria. The appellant has not argued, for the purposes of Green Belt policy, that the site should be considered as previously developed land, and I have no evidence to the contrary.
15. The Framework provides a definition for previously developed land. Even though I have found that the site is not located within the village that does not automatically mean that it is not within a built-up area. I consider that the site is located within a built-up area due to the extent of built development nearby. Therefore, having regard to the Framework's definition of previously developed land, and since the appeal site forms part of the residential garden of No. 10, Policy LPD 15 is not applicable to the proposed development. Likewise, the scheme would not accord with exception (g) of paragraph 145 of the Framework because the site does not comprise previously developed land.
16. In any event, any exception under paragraph 145 (g) only applies subject to the proviso that the proposal would not have a greater impact on openness than the existing development. Similarly, Policy LPD 15 states that the construction of new buildings is not inappropriate provided that it does not have a detrimental impact on the openness of the Green Belt or the reasons for including land within it.

17. 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.
18. The existing mature trees partially screen the appeal site from Nottingham Road. The scheme seeks to remove a number of trees and this will be discussed in more detail in the following section. The appellant has provided images to demonstrate that only glimpses of the building would be apparent. Nevertheless, the visuals depict the trees in full leaf which does not show the impact of the proposed development at different times of the year. On my site visit, I observed that the site was more open than that shown in the images due to the time of year and lack of leaves.
19. The erection of a substantial dwelling and new driveway would have a significant adverse impact on openness. Particularly within the winter months, the proposed development would be visible from the highway and would have a visual impact upon the openness of the Green Belt as a result of the scale and massing of the dwelling. The scheme would also have a spatial impact upon the Green Belt, regardless of any views, because it would result in an erosion of space where there are currently no buildings.
20. The appellant has drawn my attention to four appeal decisions². These decisions relate to appeal sites within a village washed over by the Green Belt, the main issue does not relate to Green Belt matters as both the Council and appellant agreed that the development did not constitute inappropriate development and the Inspectors found, given the context of the site's surroundings, the scheme would constitute limited infilling. Thus, the circumstances that applied in these cases are not directly comparable to the scheme before me. In any event, each appeal must be determined on its individual merits.
21. The appellant has also highlighted planning applications granted by the Council in the local area. Most of these applications were granted over 20 years ago and all of them prior to the current local and national planning policy. In addition, the Council state that the more recent permissions relate to replacement dwellings, redevelopment of a petrol filling station and an extension of a garage to form a granny annexe. Hence, these decisions cannot be directly compared to the scheme before me.
22. For the above reasons, the proposed development would substantially increase the level of built development within the site and would result in significant harm to the openness of the Green Belt both visually and spatially. As such, the scheme would conflict with the purposes of Green Belt policy, as stated in the Framework, to keep land permanently open. Therefore, even if the proposal amounted to development on previously developed land, which has not been demonstrated, the scheme would not meet the exception of paragraph 145(g) nor Policy LPD 15 of the LPD on account of the effect on openness.
23. Accordingly, based on the evidence presented, the proposal would not fall under any of the exceptions listed in the Framework and would be inappropriate development in the Green Belt, having regard to Policy 3 of the ACS and section 13 of the Framework.

² APP/Y3615/W/16/3150853, APP/N0410/W/16/3157969, APP/Y3615/A/12/2184747 and APP/J3720/W/16/3167715.

24. The appellant has drawn my attention to case law³ and an appeal decision⁴. Case law has established that where development is found to be 'not inappropriate', it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. As I have found that the development would be inappropriate development these are relevant considerations to the scheme before me.

Character and appearance

25. The appeal site currently makes a positive contribution to the area. The Officer's Report acknowledges that the design of the proposed dwelling would not have a significant impact on the character and appearance of the area. The Council's main concern in this regard relates to the loss of trees. The trees within the site are an essential element of the character of the local area. The trees are subject to a group TPO and are predominantly mature specimens.
26. In order to accommodate the development, 39 trees are sought to be removed and the appellant would plant two trees for each one removed. Of these trees to be removed 18 have been identified as trees unsuitable for retention, 7 as low quality and 14 as moderate quality. The Tree Survey identifies two of these trees should be removed due to their proximity to the existing dwelling. Most of the trees to be removed are pine trees and are situated towards the centre of the appeal site rather than adjacent to the highway. The proposed dwelling would be set back approximately 34 metres from the site's frontage.
27. As stated in the previous section, I do not consider that the images provided by the appellant provide a true reflection of the proposed development. Particularly in the winter months, I consider that the development would be substantially more conspicuous than that shown in the visuals.
28. Whilst some of the trees are not of any significant value, collectively they make a substantial and positive contribution to the visual amenity and verdant character of the area, as recognised by their inclusion in the TPO. I consider that the removal of the trees would have a detrimental impact upon the visual amenity of the site and wider area. In addition, the new dwelling would screen a large proportion of the TPO trees to the rear of the site which would lessen their amenity value. The scheme would diminish the attractive woodland character of the site. Based on the evidence presented, replacement tree planting would do little to ameliorate the identified harm and new trees would take a number of years to mature.
29. The appellant has highlighted applications for the removal of trees granted within the local area. The majority of these applications were approved prior to the current local and national planning policy. In addition, it appears that the appeal seeks to remove more trees than those applications approved.
30. The appeal site is adjacent to the boundary of a Grade II* Registered Park and Garden (Newstead Abbey). The Council raise no concerns in respect of the effect of the development upon its setting. Taking into account the distance of the proposal from the asset, and the intervening built development and vegetation I have no reason to consider otherwise. The scheme would not interrupt views of the Grade II* Registered Park and Garden, nor would it have

³ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

⁴ APP/J3720/W/16/3167715

any notable impact upon how it is experienced. Subsequently, I am satisfied that the development would have a neutral effect on the heritage asset and its setting.

31. For these reasons, I find that the proposed development would be visually harmful to the character and appearance of the site and surrounding area, having regard to the removal of TPO trees. Consequently, the scheme would conflict with Policy 10 of the ACS, Policies LPD 19 and LPD 34 of the LPD and section 12 of the Framework. These policies and the Framework collectively seek, amongst other matters, to promote good design which does not harm the character and appearance of the area.

Other considerations

32. Substantial weight should be given to any harm to the Green Belt. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
33. The appellant highlights that the Housing Delivery Test results for Gedling Borough Council showed that there is a significant under delivery of housing in the relevant period. They consider that greater weight should be given to housing delivery due to Brexit and COVID-19. I understand that the Council's latest five year housing supply report demonstrates that they expect to achieve and deliver their required supply⁵ and the appellant has not submitted any evidence to suggest otherwise. The benefit to housing supply and economic benefits arising from one dwelling would be very modest. I therefore afford limited weight to this matter.
34. The appellant states that the proposal has been designed to meet the needs of a retired couple, meeting all criterion set out in the Lifetime Homes Standards, and the scheme provides an individual exemplar home of outstanding environmental credentials. Paragraph 131 of the Framework states that great weight should be given to outstanding or innovative designs which promote high level of sustainability. Whilst the dwelling's design is commendable, and having regard to the Design and Access Statement, there is no substantive evidence before me which demonstrates that the scheme is distinguishable and truly outstanding or innovative. Moreover, there is no evidence to show that the development would help to raise standards of design more generally in the area. The design of the scheme is of merit and attracts moderate weight in favour of the proposal.
35. The appellant has set out a number of local and national planning policies which the development complies with including, Policies LPD 29, LPD 42, LPD 63 and LPD 67. However, the absence of harm and compliance with local and national planning policies does not amount to a positive factor in favour of the scheme.
36. As previously discussed, the appellant has highlighted planning permission has been granted for a number of new dwellings in the Green Belt in the local area and that applications have been granted for the removal of trees. I have found that these cases cannot be directly compared to the scheme before me and therefore these decisions do not amount to a positive factor in favour of the development.

⁵ Section 2.1.5 of the Design and Access Statement: National Planning Policy Appraisal

Whether very special circumstances exist

37. The Framework identifies that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt. The proposed development constitutes inappropriate development in the Green Belt, which carries substantial weight. Additional weight is given to its harm to the openness and harm to the character and appearance of the site and surrounding area. As cited above, the proposal conflicts with both local and national planning policy.
38. The advanced considerations relating to the supply of housing and economic benefits are given limited weight. The scheme does not amount to an innovative or outstanding design that would raise design standards in the local area, and I attach moderate weight to the design of the dwelling. Although there would be compliance with some parts of the development plan, the proposal would be in conflict with the development plan, when read as a whole.
39. When drawing this together, the advanced considerations in support of the appeal whether taken individually or cumulatively, do not, on balance clearly outweigh the conflict with planning policies that seek to protect the Green Belt. Therefore, the very special circumstances necessary to justify the development do not exist.

Conclusion

40. For the reasons given above, the proposal would amount to 'inappropriate development' that would cause harm to the openness of the Green Belt and harm to the character and appearance of the site and surrounding area. There are no very special circumstances to outweigh the harm caused. The development is contrary to national planning policy, along with the ACS and LPD. There are no material considerations to outweigh the conflict with these planning policies.
41. For all of those reasons I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

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

Chris Preston

INSPECTOR