



Appeal Decision

Site visit made on 9 February 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2021

Appeal Ref: APP/A0665/W/20/3261902

Land adjacent to fishing lake, Hollow Lane, Kingsley

- 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 Miss Spruce against the decision of Cheshire West & Chester Council.
 - The application Ref 19/04122/FUL, dated 30 October 2019, was refused by notice dated 23 April 2020.
 - The development is proposed new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and development plan policy;
 - (b) The effect of the proposal on the openness of the Green Belt;
 - (c) Whether the proposal is in a suitable location for residential development with regard to its accessibility to services, facilities, and public transport, and the provisions of development plan policy;
 - (d) The effect of the proposal on the character and appearance of the area; and
 - (e) If the proposal is 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 the development.

Reasons

Inappropriate development in Green Belt

3. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is limited infilling in villages.

4. The appeal site consists of an open area of land on the northern side of Hollow Lane that has a loose gravel surface. It is adjacent to Clough Cottage to the east and a small building is located approximately 60 metres to the west on this side of the road. A pair of semi-detached properties are also located at the junction between Hollow Lane and Kingsley Road, and a fishing lake is positioned in a hollow to the north of the site. However, it is mostly surrounded by open land and is poorly contained by existing built development in my view. In this regard, the fishing lake is a rural feature and its position below the appeal site would not visually contain the proposed dwelling in any significant way. Accordingly, I do not consider that the proposal would represent 'infilling' as envisaged in paragraph 145 of the Framework.
5. My attention has been drawn to a recent allowed appeal decision¹ at land opposite 12 West View Road, Norley where a proposal was found to constitute limited infilling in a village. However, based on the information before me, that site appears to be surrounded by existing built development to a far greater extent than is the case here. Accordingly, I have come to my own view on this matter rather than relying on the approach taken by my colleague elsewhere in different circumstances.
6. It is asserted that the appeal site is located within the village of Kingsley. However, that settlement is characterised by a concentrated rather than a dispersed pattern of development and it has a recognisable settlement edge. Moreover, there is a significant gap of open countryside between Kingsley and the ribbons of development in the vicinity of the appeal site. Accordingly, I do not consider that the site is located within Kingsley, regardless of the name of the nearby primary school. It is dissimilar to the highlighted appeal decision² at Acton Bridge in this regard. In any case, even if I had found that the appeal site is within a village, it remains the case that the proposal would not constitute 'limited infilling'.
7. For the above reasons, I conclude that the proposal would not meet the relevant exception at paragraph 145 of the Framework. It would therefore be inappropriate development in the Green Belt, which paragraph 143 of the Framework states is harmful by definition and should not be approved except in very special circumstances. The proposal would also be contrary to Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015) ('Local Plan Part 1'), and Policy DM 19 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (2019) ('Local Plan Part 2') in this regard.

Openness

8. The proposal would introduce additional built footprint and volume onto land that currently does not contain any buildings, and it would be clearly visible from along the street. It would therefore fail to preserve the openness of the Green Belt. In this regard, the Framework advises at paragraph 133 that openness is an essential characteristic of Green Belts.

Suitable location

9. The appeal site is located outside of the settlement boundary for Kingsley and is physically detached from it. In this regard, Policy R1 of the Local Plan Part 2

¹ APP/A0665/W/20/3247387

² APP/A0665/A/13/2195160

treats development proposals located outside of identified settlements as being within the countryside, where development will be determined in accordance with Policy STRAT 9. Policies STRAT 9 and DM 19 only support development outside of identified settlements in certain circumstances, none of which would apply here. Nor would the proposal constitute limited infilling in villages. Accordingly, the appeal proposal would be at odds with the locational requirements of the development plan.

10. In terms of its accessibility, the appeal site is in close proximity to a primary school and a church, and is in walking distance of services and facilities in Kingsley, including a convenience store. It is connected to Kingsley by a footpath along Hollow Lane that is set back from the road, although it is narrow and uneven in places. There is also a bus stop near to the site, albeit this is served by relatively infrequent services. In these circumstances, I consider that the appeal site has good accessibility to services and facilities for a rural location, and limited accessibility to public transport. Accordingly, future occupiers would not be unduly reliant on a private vehicle. However, that does not alter my view that the proposal would be at odds with the locational requirements of the development plan.
11. For the above reasons, I conclude that the proposal would not be in a suitable location for residential development with regard to the provisions of development plan policy. It would be contrary to Policy STRAT 9 of the Local Plan Part 1, and Policies R 1 and DM 19 of the Local Plan Part 2 in this regard.

Character and appearance

12. The proposal would introduce a new dwelling at the end of an existing row of properties along this side of Hollow Lane. The surrounding houses are mostly detached and vary significantly in their design and style. There is also some variation in the building line on this side of the road and in the height of the properties along it. In my view, the proposal would sit comfortably within this context, and its size and scale would be broadly commensurate with neighbouring dwellings. Moreover, whilst it would be positioned on a bend in the road, it would be partly screened by existing boundary planting in views from both directions, and so would not be unduly prominent.
13. For the above reasons, I conclude that the proposal would not significantly harm the character and appearance of the area. It would therefore accord with Policy ENV 6 of the Local Plan Part One and Policy DM 3 of the Local Plan Part Two. These policies seek to ensure, amongst other things, that new development respects local character and visual amenity.

Other considerations

14. The appellant contends that an onsite presence during the night is required for security purposes in order to deter the theft of fish from the lake. However, it is not clear that a new dwelling is the only means of providing additional security, or that other measures have been fully explored. Accordingly, I do not consider that a dwelling is justified on security grounds.
15. The proposal would make a small contribution towards the supply of family housing. It would also generate some modest economic benefits including the creation of employment, and the purchasing of materials and furnishings. However, such benefits are common to developments of this type and size.

Conclusion

16. The proposal would constitute inappropriate development in the Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. The proposal would also be in an unsuitable location for residential development with regard to development plan policy. Even when taken together, the other considerations do not clearly outweigh the harm in this case. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would therefore be contrary to Policy STRAT 9 of the Local Plan Part 1, Policies R 1 and DM 19 of the Local Plan Part 2, and guidance contained in the Framework.
17. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR