



Appeal Decision

Site visit made on 17 May 2021

by **Peter Mark Sturgess BSc (Hons), MBA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 15 June 2021

Appeal Ref: APP/M0655/W/20/3256101

Land at junction of Chapel Lane and Manchester Road, Rixton, Warrington.

- 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 Trustees of Horizon Cleaning Services Pension Fund against the decision of Warrington Borough Council.
 - The application Ref 2018/32179, dated 13 February 2018, was refused by notice dated 15 January 2020.
 - The development proposed is full planning permission for erection of part three storey, part two storey 74 bed space dementia care home (Use Class C2) together with ancillary facilities (laundry, cinema, salon lounge and dining) and associated access, parking, landscaping and external works (resubmission of application ref: 2015/26873).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies,
 - the effect of the proposed development on the openness of the Green Belt,
 - the suitability of the location of the proposed development, having regard to its proximity to services
 - the living conditions of the proposed occupiers of the building,
 - the effect of the proposed development on the character and appearance of the area,
 - would the harm by reason of inappropriateness and any other harm, be clearly outweighed by other considerations, so as to amount to very special circumstances required to justify the proposal.

Reasons

Inappropriate development in the Green Belt

3. The Framework states that the Government attaches great importance to Green Belts, with their fundamental aim to prevent urban sprawl by keeping

land permanently open. Their essential characteristic is their openness and permanence. The construction of new buildings should be regarded as inappropriate in the Green Belt and inappropriate development is by definition harmful.

4. The Framework also sets out a number of exceptions to inappropriate development. These exceptions include limited infilling within villages and limited infilling or the partial or complete redevelopment of previously developed land. In terms of the second of these exceptions any redevelopment should not have a greater impact on the openness of the Green Belt than the existing development. Infilling within villages does not include a reference to the development's effect on the openness of the Green Belt.
5. I acknowledge that the appellant has argued that the proposed development is not inappropriate development within the Green Belt as it is limited infilling within a village. However, for that to be the case the site would need to lie within a village and constitute infilling. I do not agree that 'reasonably close' to other dwellings and buildings is sufficient for the proposed development of the site to constitute 'infilling' as it is too vague a description and could lead to more general harm to the openness of the Green Belt and the purposes it is meant to serve if it were to be generally accepted.
6. The site faces open countryside on two sides, albeit on the south side that is on the opposite side of the A57. Generally, and in order to constitute infilling the site should consist of a gap in an otherwise built frontage. To the east of the site, across open fields, it is some considerable distance before another dwelling is encountered. It is even further before the main built up area of Hollins Green is reached. To the north east of the site, along Chapel Lane are 4 dwellings. However further along Chapel Lane is open land consisting of what appears to be gardens/allotments with some outbuildings. The dwellings on Chapel Lane have their rears facing the appeal site. All these factors when taken together indicate to me that the proposed development of the site would not constitute infilling of a site within a village.
7. The appellant has also indicated that the site should be considered as previously developed land (PDL) and therefore the proposal to construct a new building should be considered as an exception to inappropriate development. In order to comply with this exception, the development should, amongst other things, have no greater impact on the openness of the Green Belt than the existing development. I shall return to the matter of openness later in this decision. However, it is important that I deal with the previously developed land issue at this point as part of establishing whether the appeal proposal is inappropriate development in the Green Belt.
8. The Framework contains a glossary which gives a definition of PDL. Within this definition PDL is described as '*land which was occupied by a permanent structure including the curtilage of the developed land*'. It is clear to me that the site contains elements such as a building and a hardstanding that would lead me to conclude that the land is PDL. However, the larger part of the site is made up of land that has the appearance of open grassland with no obvious signs that it has been previously developed. The glossary advises that it should not be assumed that the whole of the curtilage should be developed.
9. Moreover, the glossary goes on to state that land that was previously developed but where the remains of the permanent structure or fixed surface

structure have blended into the landscape it is excluded from the definition of PDL. The appellant has argued that the land could be regarded as PDL as it contains a building and hardstanding and the open grassland has been used for storage and hardstanding in the past.

10. Whilst I consider that the existing building and hardstanding could be regarded as PDL in terms of this definition I do not consider that the larger part of the site which has the appearance of a paddock can be regarded as PDL. This is because any permanent structure or fixed surface structure which might have been present have blended into the landscape. Furthermore, the majority of the site is made up of this land. I therefore do not consider that the land should be considered as coming within the exception set out in paragraph 5 g) of the Framework.
11. I have also been supplied with a number of appeal decisions which the appellant argues demonstrate that limited infill within villages is not inappropriate development in the Green Belt and that the definition of village in these decisions is widely drawn. It is clear to me that there are material differences between the circumstances in this appeal and those to which I have been referred. In particular it appears to me that in the cases supplied there was development on either side of the appeal site. That is not the case in this appeal. In any event I am required to determine this appeal on its particular merits.
12. The appellant has also drawn my attention to a determination made by the Council for the extension of a care home at Rosevilla, Penkford Lane, Collins Green (Council Ref:2015/25250). The appellant has argued that in the interests of consistency the appeal proposal should be dealt with in the same way as this application. The appellant argues that the extension at Rosevilla was not considered inappropriate development as it constituted 'rounding off'. 'Rounding off' is not one of the exceptions to inappropriate development in the Green Belt given in the Framework. Furthermore, the approved scheme at Rosevilla was for an extension. Therefore, different considerations would have applied to that proposal than the one that is currently before me.
13. For these reasons I do not regard the appeal proposal as falling within one of the exceptions to inappropriate development in the Green Belt set out in paragraphs 145 and 146 of the Framework. I therefore find that the proposal is inappropriate development in the Green Belt.
14. The development plan includes the 'Local Plan Core Strategy', adopted in 2014 (LP). Policies CC1, CC2 and CC5 deal with development in the Green Belt. To a large extent they mirror the policies set out in the Framework with regard to development in the Green Belt. I therefore regard them as being consistent with national policy in this regard. As a result, I find that the appeal proposal is in conflict with these policies of the development plan.

Effect of the proposal on the openness of the Green Belt

15. The Framework states that a key feature of Green Belts is their openness. Therefore, further harm would be caused to Green Belts through inappropriate development that affects their openness.
16. The appeal proposal would introduce a large 2/2.5 storey building on to an area of the site which is currently undeveloped and is next to open land which

extends for some distance towards Hollins Green. There is open land opposite the site on the other side of the A57.

17. The proposed building would be prominent when viewed from the A57 when approaching the site from both directions. Despite a mature hedge being present between the site and the A57 its height and proximity to the road would mean that this would do little to mitigate its visual impact on the openness of the Green Belt in this location. Moreover, the proposed building would have wider, albeit limited, visibility in the landscape when viewed from Chapel Lane and from the approaches to Warburton Bridge.
18. Openness has a spatial as well as a visual dimension. The building itself would take up considerably more of the site than the current building and would be sited on the currently undeveloped part of the land and so therefore would harm the openness of the Green Belt in spatial as well as visual terms.
19. Overall, the proposed building would harm the openness of the Green Belt in this location both visually and spatially through its height, bulk and massing and its proximity to the A57.

Location of the site

20. The site is located alongside a busy road and away from services that would be required on a daily basis. The proposed development would be staffed 24 hours a day. I acknowledge that the appellant has demonstrated that the appeal site has reasonable access to public transport, in particular a bus service. However, given the need for the proposed facility to be staffed 24 hours a day it would still mean a proportion of the staff would be reliant on a car to access the site.
21. Moreover, whilst I accept that the residents would not be regular visitors to local shops and services, I am persuaded by the Council's argument that neither would they be unable to leave the site either accompanied or unaccompanied. The nature of the A57, with heavy traffic, including HGVs, and the restricted width of the footpath between the site and Hollins Green, does not represent an attractive route for pedestrians to access nearby services.
22. These factors indicate to me that the site would be primarily accessed by car. Policies CS4 and MP1 of the LP expects new developments to be located to reduce the need to travel, especially by car. This approach is followed in Policy SN7 which supports the development of health-related facilities and expects them, where possible to be located in defined centres or neighbourhood hubs. The appeal proposal would be in conflict with these policies as it would lead to residents and to a certain extent staff and visitors being reliant on the car as a means of transport to access the facility.

Living conditions

23. The matter relating to living conditions essentially breaks down into two parts: those associated with the living conditions that would be experienced by the occupiers of some of the proposed bedrooms and those associated with the adequacy of the proposed external garden space. I shall deal with these elements separately.
24. The bedrooms which the Council are concerned about are 29 and 30 which face towards the open countryside on the east side of the development and 20, 23,

- 24, 27, 28 and 31 which face on to the courtyard in the centre of the site. Bedrooms 29 and 30 it is alleged would be close to the boundary fence and this would give the occupants a poor outlook.
25. The appellant has argued that the boundary fence at this point could be made permeable so that views could be obtained by the occupants across neighbouring land. The applicants do not control the neighbouring land so that it would be open to the neighbouring landowner to erect a solid fence and thereby restrict the outlook from these bedrooms. However, there is still in my view a reasonable distance between the bedrooms and the boundary so any solid barrier in this location would not restrict the outlook of the rooms to an unacceptable degree.
26. In terms of the proposed bedrooms which face on to the courtyard at the centre of the site these would be at risk of disturbance from vehicles using the car parking spaces. However, given that each room which might be affected has its own external terrace and it appears possible to introduce planting into the area between the terrace and the car parking I do not consider this relationship to be unacceptable.
27. The location of the garden space within the courtyard will allow for adequate supervision of the residents whilst at the same time providing the opportunity for outdoor activities. Other spaces would be available to the residents, around the proposed building. I therefore consider that the outdoor garden space provided would be acceptable.
28. Therefore, and having regard to all the factors set out above I consider that the proposed facility provides adequate external garden space and outlook for the residents. Policies QE6 and QE7 of the LP seek, amongst other things, to create development that protects the amenity of future occupiers and creates inclusive and attractive environments. I consider that the proposed development with regard to the living conditions of the potential residents is consistent with these policies.

Character and appearance of the area

29. The site lies in an area which is characterised by open agricultural land and domestic scale buildings. The large 2 and 2.5 storey building would be seen in the context of the existing modest housing on Chapel Lane and the open land to the east. The introduction of a large building into this area would harm its character and appearance as it would dominant the buildings around it, be intrusive and incongruous by reason of its bulk, mass and height particularly when viewed from the A57 and Chapel Lane.
30. Policy QE7 of the LP looks positively upon proposals provided they meet certain criteria. In particular it expects developments to reinforce local distinctiveness, enhance the character and appearance of the area, harmonise in scale and proportions with adjacent buildings and maintain and respect the landscape character of the surrounding countryside. The appeal proposal conflicts with this policy as it would not harmonise with either the domestic scale buildings present in the locality, nor would it respect the open landscape character of other land around it.

Other considerations

31. The appellant has argued that there is a need for the type of accommodation the appeal proposal would provide. In support of this argument the appellant has provided information from Jones Lang Lasselle and Knight Frank. The Knight Frank assessment also discounts the provision made by smaller care homes and those which cannot provide en-suite accommodation, and this increased the demand still further. The appellant has also carried out an assessment of sites available outside the Green Belt which identified no suitable and available sites.
32. The Council take the view that the short-term demand for care beds can be met as there is around 83% occupancy in existing care homes. The occupancy rate has fallen from around 92% at the time of the planning application. Furthermore, they state that their strategy of supporting people to stay in their own homes or use Extra Care accommodation will reduce demand. They also argue that smaller, non-bespoke accommodation should not be discounted as that offers choice in the market. Moreover, they argue that the impact of the Covid 19 pandemic has not been taken into account in the appellant's figures and this will reduce demand still further.
33. I acknowledge that there is a demand for care home beds generally and a demand for more specialist accommodation and this is demonstrated in the appellant's evidence. However, the Council has a strategy to address this need and appears to understand the demand for all types of care within the District, including the range of care needed for dementia patients.
34. The current care home occupancy rate, which has not been disputed by the appellant, appears to be able to cope with current demand. Furthermore the actions set out by the Council to ensure that there is a full spectrum of support for those with dementia, ranging from support for people in their own homes, extra care provision to specialist dementia care would appear to be one way of meeting demand in the future. Moreover, the uncertainties concerning demand brought about by the current pandemic need to be factored into any assessment of future demand and I cannot see that this has been done.
35. Consequently, whilst I can give moderate weight to the evidence of demand set out in the appellant's evidence this is tempered by the approach of the Council and the uncertainties concerning future demand.
36. The appellant has argued that the proposal will help support the local economy as it will provide around 50 construction jobs and around 85 full time equivalent posts once the facility is operating. However, some of the figures quoted by the appellant with regard to the number of jobs to be created are contradictory with 30 – 40 construction jobs being stated at one point and 20 FTEs in the facility itself. Despite these contradictions there is no doubt that the facility will provide jobs during its construction and once it is operating. However, the area has around the national average unemployment rate. Therefore, I can give this consideration moderate weight in this decision.
37. I acknowledge that the appellant has argued that there is a need to redevelop the existing site and remove a poor building. Whilst the building is utilitarian in its appearance it is not in a particularly poor state of repair and is not that prominent when viewed from outside the site. The site appears to be secure

- with tall gates at its entrance. I see no over riding need for the site to be redeveloped. I therefore give this argument limited weight in this decision.
38. I note that reference has been made to the presumption in favour of sustainable development and the application of the '*tilted balance*' as the Council does not have a 5-year supply of deliverable housing sites. However, paragraph 11 d) i of the Framework is clear, where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed the '*tilted balance*' should not apply. This includes development in the Green Belt. However, the lack of a 5-year supply of deliverable housing sites is a consideration which is part of the ordinary balance.
39. The appeal proposal would contribute to the supply of housing in the area and by releasing property that would be made available by people moving into the facility. However, the Council has argued that there are positive benefits for older people staying in their own homes and is supporting them to do so. Moreover, the facility itself would provide specialist accommodation which would not be available to meet the general housing needs in the Borough. I therefore give this consideration limited weight in this decision.
40. The appellant has referred to the way the development would integrate with the surrounding area in support of the proposal. However, the current site, despite being partially developed integrates well with its surroundings which include a large open area next to the adjacent open areas to the east and a 2-storey building that relates well to the 2-storey dwellings on Chapel Lane. Therefore, I can give this consideration limited weight.

Planning Balance

41. I have found that the development is inappropriate development in the Green Belt as it would introduce a large building on to currently undeveloped land. Moreover, the appeal proposal is not included in any of the exceptions to inappropriate development set out in the Framework. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
42. Furthermore, the development would also harm the openness of the Green Belt through the introduction of a large building which would block views across the currently open land from the A57 and Chapel Lane. The essential characteristic of Green Belts is their openness. The Framework states that when considering planning proposals substantial weight should be given to any harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal.
43. I have also found that the proposal is in conflict with policies of the development plan in particular Policies CC1, CC2, CC5, CS4, MP1 and QE7 of the LP. This is because it would be inappropriate development in the Green Belt, it would not, by reason of its size, bulk, siting, and height harmonise with its surroundings and would not, due to its location reduce the need to travel, especially by private car.
44. I have had regard to the other considerations put forward by the appellant in support of the proposal. However, whilst I give moderate weight to the demand in the area for care home and dementia care accommodation, I find that this

does not outweigh the substantial weight I am required to give to the Green Belt harm I have found.

45. Moreover, I have also found that the proposal is in conflict with the development plan. S38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations are made in accordance with the development plan unless material considerations indicate otherwise. Whilst I have found that the appeal proposal is consistent with QE6 and QE7 of the LP with regards to the living conditions of the potential residents and had regard to the other considerations advanced in support of the proposal I find that overall these do not indicate that the appeal should be allowed.
46. It is clear that the totality of harm caused by the development to the Green Belt and other none Green Belt harm outweigh the other considerations advanced by the appellant in support of the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

47. The appeal is therefore dismissed.

Peter Mark Sturgess

INSPECTOR