



Appeal Decision

Site Visit made on 18 May 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2021

Appeal Ref: APP/R1038/W/21/3269537

Land east of Sycamore House, Hemming Green, Old Brampton, Derbyshire S42 7JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mr Hunt, Coverland UK Ltd against the decision of North East Derbyshire District Council.
 - The application Ref: 20/00992/OL, dated 13 October 2020, was refused by notice dated 16 February 2021.
 - The development proposed is outline application for a maximum of 2 No. detached dwellings (all matters reserved).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by North East Derbyshire District Council against Coverland UK Ltd. This application is the subject of a separate decision.

Preliminary Matters

3. The planning application was submitted in outline with all matters of detail reserved for future consideration. I have assessed the proposal on this basis and treated the drawings as simply being an illustration of how the proposal could ultimately be configured.
4. Although the emerging North East Derbyshire Local Plan 2014-2034 (ELP) is at an advanced stage, it is yet to be adopted and its policies may be subject to further change, which limits the weight to be attached to it. The saved policies of the North East Derbyshire Local Plan (2005) (LP) therefore constitute the development plan for the purposes of the appeal. I will determine the appeal on this basis.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, and its effect on the openness of the Green Belt;
 - If the proposal would be inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development and effect on openness of the Green Belt

6. Paragraph 145 of the National Planning Policy Framework (the Framework) sets out a number of exceptions to inappropriate development in the Green Belt. One such exception under Paragraph 145e) of the Framework is limited infilling in villages.
7. Policy GS2 of the LP also seeks to strictly control development in the Green Belt, and echoes some of the exceptions in paragraph 145 of the Framework, while omitting some exceptions such as limited infilling in villages. As such, Policy GS2 of the LP is partly consistent with the Framework.
8. Whether the appeal site is within the village is a matter of planning judgement. Even if the historic cluster of development in the vicinity of Old Brampton Church were included within the village boundary, along with the more modern residential ribbon development that is categorised in the adopted and emerging Local Plans as being within Old Brampton's Settlement Development Limits (SDL), the proposal would not fall within the village boundary given the following combination of factors 'on the ground'.
9. The appeal site is part of an arable field within the Green Belt that noticeably forms part of a substantial, larger break in development on the northern side of Hemming Green road, between The Sycamores and the substation. Together, the gently sloping topography and spacious and verdant character of the fields including the appeal site draw the eye away, and distinguish the appeal site from the village's built up area. As such, the appeal site forms part of an area of countryside that flows around the village and down the sloping valley side.
10. Furthermore, the appeal is adjoined by residential development on only one side and so is not an infill site. The above together means that the proposal would not constitute limited infilling in a village.
11. Therefore, the proposal would not fall within the exceptions listed in paragraph 145e) of the Framework. Thus, it would be inappropriate development in the Green Belt, which would, by definition, be harmful.
12. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. The Framework sets out that openness is an essential characteristic of Green Belts. It has both a spatial and visual dimension.
13. The appeal site is part of an open field which forms part of a wider area of fields on a gently sloping valley side. It is visible from various viewpoints along the road and the pavement on Hemming Green road, within countryside to the north and east and from the neighbouring dwelling to the west. Whilst details of layout, scale, appearance, landscaping and access are reserved, it is likely that the new residential development with domestic paraphernalia including garden areas, vehicles, engineering works to create access, illumination and noise would deplete the openness of the site. This would cause significant harm to the openness of the Green Belt.
14. Furthermore, the expansion of residential building mass, use, paraphernalia, illumination and activity into the area of fields that is free from development

would constitute encroachment into the countryside. Therefore, the proposal would undermine the purposes of the Green Belt as set out in the Framework.

15. The proposal's failure to preserve the openness of the Green Belt and safeguard the purposes of including land in it would conflict with Policy GS2 of the LP.
16. Policy GS1 of the LP does not mention Green Belt. Nonetheless, the Green Belt harm dimension of the proposal's impact would contribute to it conflicting with Policy GS1 of the LP through being development outside Old Brampton's SDL that would not preserve the local environment.

Other considerations

17. The proposal would result in up to two new dwellings, with associated socio-economic benefit to the area during and after construction. This is within the context of an undisputed supply of around 8.3 years of deliverable housing sites in the district. The scale of benefit in this case would be modest and thus carries limited weight.
18. As indicated on the indicative proposed site plan, the proposal is likely to result in loss of characteristic spaciousness and verdancy. The introduction of residential building mass, use, paraphernalia, illumination and activity would have an urbanising impact on the area of fields that flows around, and forms part of the countryside setting of, the village. Also, access to the site would puncture the field's drystone wall front boundary along Hemming Green road, further revealing the proposal's domestic character and contributing to its urbanising impact.
19. The above would be noticeable from a combination of various viewpoints travelling along Hemming Green road, within the site and other countryside to the north and east and from the neighbouring dwelling to the west.
20. Furthermore, the above adverse impact would occur within an area that is identified within the proposed Main Modifications of the district's emerging new Local Plan¹ as an Area of Primary Sensitivity. This indicates that the adverse impact would occur within a sensitive area of landscape, which is most likely to be negatively affected by change or development.
21. In conclusion, the proposal would harm the character and appearance of the area. As such, it would conflict with Policies GS6 and NE1 of the LP, which together seek to ensure that development complements local landscape and countryside character.
22. Furthermore, the character and appearance harm aspect of the proposal's impact would contribute to it conflicting with Policy GS1 of the LP, through being development outside Old Brampton's SDL that would not preserve the local environment in terms of the character and appearance of the area.

Whether very special circumstances

23. Policy GS2 of the LP sets out that other than for several exceptional uses, which do not apply in this case, planning permission will not be granted within the North East Derbyshire Green Belt except in very special circumstances. As

¹ Proposed Main Modifications to the North East Derbyshire Local Plan (Publication Draft) 2014-2034.

per the Framework, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

24. I have found that the proposal would be inappropriate development in the Green Belt, which would, by definition, be harmful. The appeal scheme would also result in significant harm to the openness of the Green Belt and would conflict with one of the purposes of including land within it. Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt. The totality of identified harm to the Green Belt carries substantial weight and is not clearly outweighed by other considerations.
25. Therefore, the very special circumstances necessary to justify the development do not exist. As such, the proposal is contrary to Policy GS2 of the LP and the Framework.

Policy Considerations

26. I have had regard to the other Inspectors' findings in previous appeal decisions on other sites cited by the appellant. These include that² a) although the Council could demonstrate a supply of deliverable housing sites in the district of around eight years, the settlement limits and housing targets in the development plan did not address the district's housing need in Spring 2020, and b) there was thus no policy presumption against further expansion of settlements, subject to detailed assessment against development plan policies and material considerations.
27. In another appeal decision³ it was found that as the list of development not regarded as inappropriate in the Green Belt within Policy GS2 of the LP was not entirely consistent with the Framework, the policy carried limited weight. As set out in the decision, the weight still attached to Policy GS2, and the conflict of the residential development proposal with this policy contributed to the dismissal of the appeal.
28. I have also considered the arguments and evidence presented afresh in this case, in the light of the especially healthy amount of housing supply in the district - which is well in excess of the Framework's five year requirement - and the apparent logic of Old Brampton's SDL, given the site's rural character.
29. Policy GS1 of the LP seeks, amongst other things, to focus development within SDLs unless the development is acceptable in the countryside, or 'overriding exceptional circumstances' apply. While Policy GS1 exceeds the Framework's emphasis in several respects including its 'exceptional circumstances' element, the requirement for development to be located within SDLs is not in itself inconsistent with the Framework. SDLs can help protect countryside character and focus development in the most sustainable locations. Given the rural character of the appeal site, Old Brampton's SDL appears to be logically drawn. Furthermore, much of the content of Policy GS1 of the LP follows sound sustainable development principles. This includes GS1 requiring development to preserve or enhance the environment of North East Derbyshire and contribute towards achieving a sustainable pattern of development.

² As set out in Appeal Decision Ref: APP/R1038/W/20/3244154.

³ Appeal Decision Ref: APP/R1038/W/20/3244693.

30. Policy GS2 of the LP omits several types of exception to inappropriate development that are included within paragraph 145 of the Framework. This limits Policy GS2's overall consistency with the Framework. That said, the omitted types of exception do not apply in the current appeal case. Furthermore the 'very special circumstances' approach, which is part of Policy GS2 relevant in this case, is consistent with the Framework. It is undisputed that Policies GS6 and NE1 of the LP are consistent with the Framework.
31. Taking the above together, Policy GS1 of the LP is to some extent consistent with the Framework in that it follows some sound sustainable development principles. The part of Policy GS2 of the LP that applies in this case, and Policies GS6 and NE1 of the LP are consistent with the Framework. Moreover, given that the district's supply of deliverable housing sites substantially exceeds the Framework's five year requirement, restraint on development beyond Old Brampton's SDL, as prescribed by Policy GS1 of the LP, would not prevent housing supply being boosted.
32. Given the above, I attach moderate weight to Policy GS1 of the LP and substantial weight to Policies GS2, GS6 and NE1 of the LP.

Planning Balance and Conclusion

33. In the light of the main issues described above, I consider that the most important policies for determining the appeal are Sustainable Development Green Belt Policy GS2 of the LP, New Development in the Countryside Policy GS6 of the LP and Landscape Character Policy NE1 of the LP.
34. Given my above findings regarding the consistency of this case's most important policies with the Framework, I consider that the most important LP policies for determining this appeal are not out of date. Moreover, as the identified harm to the Green Belt provides a clear reason for refusing the proposed development, the 'tilted balance' as set out in paragraph 11d) of the Framework is not engaged.
35. The proposal would be contrary to the development plan and there are no other considerations which outweigh this finding. The proposal would also conflict with the Framework policy on Green Belt. Accordingly, for the reasons given, the appeal fails.

William Cooper

INSPECTOR