



Appeal Decision

Site Visit made on 22 June 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2021

Appeal Ref: APP/D2320/W/21/3269320

Stocks Hall Mawdesley, Hall Lane, Mawdesley L40 2QZ

- 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 Gareth Jones against the decision of Chorley Borough Council.
 - The application Ref 20/01095/FUL, dated 14 October 2020, was refused by notice dated 18 December 2020.
 - The development proposed is the change of use of building compound for the siting of six residential lodges, to be used in connection with Stocks Hall Nursing Home and Health Club.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the Green Belt
 - whether any harm to the Green Belt 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

Effect on the Green Belt

3. The site lies within the Green Belt. The Government attaches great importance to Green Belts. 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.
4. Section 13 of the National Planning Policy 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. There is no disagreement between the main parties that the proposed development would constitute an inappropriate form of development in the Green Belt. This is on account of its effect on the openness of the site.
5. Paragraph 146 of the Framework explains that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Of the provisions within Paragraph 146, the appellant refers me to Paragraph 146 e) which concerns material changes in the use of land.

6. The proposal would introduce six timber cabins onto the land with supporting surface infrastructure and services. Although the land is currently used for the storage of contractors equipment and includes a site office, the Council's evidence confirms that this arises from the temporary provisions of Schedule 2, Part 4, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The Conditions of the Part 4 provisions require that any development permitted by Class A be removed once the qualifying operations have been carried out and that, as soon as reasonably practicable, the land be reinstated to its condition before that development. According to the Council, the land was previously a grassed field. This is a matter which is not contested by the appellant.
7. Accordingly, although the cabins may fall within the definition of a 'caravan', their intended permanent presence alongside the attendant requirements for new surface infrastructure on a site previously substantially free from development would give rise to a significant comparative loss of spatial openness of the Green Belt.
8. The effect on its visual openness would be considerably less. This is because the site benefits from existing screening by vegetation and fencing on its outer boundaries. Visibility from the road and surrounding areas would be limited due to the presence of the existing main building and the site's position low in the undulating rural landscape. Clear views would be mainly limited to those from the nursing home itself and parts of the car park alongside it. Nevertheless, the combined effects on openness would be considerable.
9. Furthermore, the proposed use of the site would introduce lasting development that would formalise the appearance of the land. This would conflict with the aim of safeguarding the countryside from encroachment.
10. For the above reasons, I agree that the development would constitute inappropriate development within the Green Belt. Furthermore, it would considerably erode its openness and conflict with one of the purposes of including land within it. As such it would be contrary to the requirements of the Framework as it seeks the aforesaid aims.

Other Considerations

11. In support of the development the appellant refers to a need for the type of accommodation proposed. This would facilitate visiting families of the care home residents or users of the health facilities to stay at the site. It is stated that the business currently relies on the use of some apartments which could otherwise be used for extra care and this undermines the viability of the care home. However, there is little objective evidence to demonstrate any such need or its extent. Nor is there substantive evidence to indicate that the existing arrangement causes a risk to the viability of the business. In that regard I find those arguments attract limited weight.
12. I acknowledge that the restrictions imposed throughout the ongoing pandemic have caused a particular concern to residents of care facilities and those families with relatives residing in them. It is clear that visiting access to relatives will be subject to precautionary conditions for some time to come.
13. Age and disability are 'relevant protected characteristics' and I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of

the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. It does not follow from the PSED that the appeal should succeed; however, I am required to have due regard to the duty in arriving at my decision.

14. Whilst I acknowledge the potential benefits that would result to residents and their families, I note that this is not necessarily dependent on the proposed development. Such benefits could potentially be achieved through implementation of alternative facilitation at the site as the appellant states currently occurs. Alternatively, any need could be met through the use of nearby facilities providing overnight accommodation, for example. Although a refusal of planning permission may deprive a visiting family of convenient accommodation at the site, it would not necessarily prevent the ability to provide it by other means.
15. Accordingly, I find those circumstances are not a strong justification for setting aside national policies with the legitimate aim of protecting the Green Belt in the public interest. Consequently, those matters attract no more than moderate weight in favour of the appeal scheme having regard to the particular circumstances of the case.
16. I also recognise that the units could be used to isolate residents should Covid19 outbreaks occur. I have little doubt that the option to use the cabins for that purpose could bring about a benefit to the management of the site, however, this would be equally capable of being served by a less permanent form of development or through alternative arrangements based on specific identified need as and when it arises. I therefore consider it is also a matter limited to moderate weight.
17. The appellant refers me to a planning permission granted by Cornwall Council (ref PA20/07894) for a detached Covid-19 visitor meeting pod adjacent to a care home. However, there is little detail regarding the specific circumstances of that case and, in particular, whether it related to a Green Belt location. I am therefore unable to draw any comparisons, or otherwise, to the case before me, a case I have considered on its own merits.
18. I acknowledge a third-party claim of encroachment on part of the site, however, there is little evidence before me to indicate that it could not be resolved under legislation dealing with private legal rights regarding land ownership.
19. I also acknowledge concerns in relation to drainage, privacy and the potential alternative use of the cabins; however, as matters capable of control through planning conditions, these are of limited weight.

Conclusion

20. The siting of the cabins would constitute inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The proposal would also cause considerable harm to the openness of the Green Belt and conflict with its purpose of safeguarding the countryside from encroachment.

21. The considerations presented by the appellants with regard to need, viability and the benefits to residents of the care home, their families and users of the health facilities, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist.
22. For the reasons set out above, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR