

Appeal Decision

Site visit made on

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2021

Appeal Ref: APP/B3030/W/21/3276949

The Cascades, Boat Lane, Hoveringham, Nottingham NG14 7JP

- 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 Brian Jackson against the decision of Newark & Sherwood District Council.
 - The application Ref 20/01801/FUL, dated 17 September 2020, was refused by notice dated 24 March 2021.
 - The development proposed is the erection of single dwelling with curtilage, hardstanding and new vehicular access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies,
 - the effect on the openness of the Green Belt,
 - whether the proposal would be safe from risk of flooding, and
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. Spatial Policy 4B of the Newark and Sherwood Local Development Framework Core Strategy and Allocations Amended Core Strategy (March 2019) (the Core Strategy) states that new housing in the Green Belt in the area will be focussed in principle villages and other specified locations. It states that no villages 'washed over' by the Green Belt, including Hoveringham, have been identified for limited infilling.
4. The Council accepts that Spatial Policy 4B of the Core Strategy is inconsistent with the Framework, and as such, they defer to the Framework insofar as limited infilling in Green Belt villages could be acceptable, subject to the application of the tests in the Framework.

5. The Framework is clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Whilst the construction of new buildings is inappropriate in the Green Belt, Paragraph 149e of the Framework accepts that limited infilling in villages is not inappropriate.
6. To benefit from that exception, it is necessary to determine if the proposal would represent infill development. I note the lack of a definition of infill and acknowledge the argument of the appellant that if the authors of the Framework or the development plan had wanted infill to be limited solely to the development of a gaps in otherwise continuous frontages, rather be applicable to sites such as this one, then they would have defined it as such. However, it is not for me, in this appeal, to judge the intent of those who drafted, consulted on, examined and adopted either the Core Strategy or the Framework. Relevant caselaw makes clear that this is a matter of planning judgement for the decision maker having regard to the nature and size of the development, the location of the site and its relationship to other existing development.
7. I acknowledge that the appeal site is within the ownership of the appellant and within the curtilage of The Cascades. Viewed from Boat Lane, the site is associated with The Cascades, with a consistent boundary treatment to the front and sides, although well-established hedging sets the site apart from the more obvious garden to The Cascades.
8. In terms of its surroundings, the appeal site lies at the western end of a line of dwellings south of Boat Lane, leading towards the river. This line of dwellings south of Boat Lane overlaps slightly with the eastern end of a line of dwellings to the north of Boat Lane. These two groups are clearly separate from the bulk of Hoveringham to the east, and that separation is obvious when travelling along Boat Lane in either direction.
9. As a result, I do not consider that the site lies within the perceptible built framework of Hoveringham. Given the character and appearance of the site, I also do not consider that extending the line of built development along Boat Lane would represent infill, instead appearing as an obvious extension and encroachment into the countryside. I reach this conclusion on the basis of my judgement on the facts of the case before me, even having had regard to the suggestion that development of this nature, to the side of an existing dwelling, has been accepted as infill elsewhere.
10. I therefore find that the proposal is not limited infilling within a village and does not benefit from the exception in paragraph 149e of the Framework. The proposal would therefore be inappropriate development in the Green Belt, contrary to its purpose, having regard to the limited weight to be given to Spatial Policy 4B of the Core Strategy.

Openness

11. As noted, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence.
12. The proposal would extend the line of development on its side of Boat Lane, increase the overlap with the dwellings on the opposite side, and give Boat Lane a more built-up appearance and increase the overall bulk of the built form in this area. Given the separation of the site and its immediate neighbours from the substantive built-extent of Hoveringham, I consider that the proposal would therefore have a significantly harmful, spatial effect on the openness of the Green Belt. Acknowledging the limited removal of trees for access, this increased overlap and increased amount of built development on the site would also have a minor visual effect on openness.
13. The appellant has sought to compare the effects of the appeal proposal with potential effects of permitted development. Whilst I note this, it does not alter my conclusions, as the permitted development regime is distinct from the consideration of planning applications, and details of such proposals are not before me.
14. I therefore find that the proposal would cause significant harm to the openness of the Green Belt.

Flood risk

15. As the appeal site lies within Flood Zones 2 and 3, it is subject to the sequential test, in order to steer new development to areas with the lowest risk of flooding from any source. There is disagreement between the Council and the appellant as to the extent of the area of search for the sequential test and in response to the reason for refusal, the appellant has in their appeal submission widened their area of search, although it is still smaller than that sought by the Council.
16. According to the Council, because the sequential test does not include the entire local authority area, it is not possible to know if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Planning Practice Guidance (the PPG) supports the Council approach to the sequential test, noting that it is for local planning authorities, taking advice from the Environment Agency as appropriate to consider the extent to which sequential test considerations have been satisfied, taking into account the particular circumstances in any given case.
17. The appellant suggests that because of the particular circumstances of their case, that is, the availability of a suitable site in the area where the appellant wishes to build a house, there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, and the exception test applies.
18. If I were to favour this approach to the sequential test and apply the exception test, I must be satisfied that both limbs of the test are met. Although limited by the scale of the proposal, I accept that the proposal could provide wider sustainability benefits to the community, including additional housing, economic benefits from construction, and support for services. However, these benefits must outweigh the flood risk of the proposal. Whilst I note the proposed detail, including the particular siting and design of the proposal within

the plot, the provision of compensatory flood storage and the use of warning systems, I remain concerned over evacuation and escape in the case of flooding.

19. The proposal relies on elevated escape routes, either within the site or through the neighbouring property, leading from the proposed dwelling to Boat Lane, within Flood Zone 1. As this area of escape would in effect be an island in the case of a severe flood warning, the FRA suggests early warning would be necessary in order to evacuate in good time and avoid potential lengthy stranding on high ground. In addition to this need for early warning and prompt action to ensure safety from flood risk, I also note that the Environment Agency, which does not normally comment on or approve the adequacy of flood emergency response procedures has explicitly highlighted that routes into and out of the dry island onto which the site would be evacuated in times of severe flooding, would be classified as being dangerous to all. This hazard level means there would be a danger of loss of life for the general public and emergency services in accessing that dry island.
20. Taking the above into account, whilst I note that measures are proposed to manage and mitigate flood risk, to ensure a low risk of flooding for the dwelling and to manage flood risk to the occupiers, I am not wholly convinced that the overall flood risk would be so low that it would be outweighed by the relatively limited wider sustainability benefits to the community.
21. As such, I find that even if I were to accept the appellant's position with regard to the sequential test, the exception test would not be passed.
22. Given the above, it has not been adequately demonstrated that the proposal would be safe from flood risk, and the proposal would be significantly contrary to Core Policy 10 of the Core Strategy, Policy DM5 of the Newark and Sherwood Allocations and Development Management Development Plan Document (2013) and guidance in the Framework and PPG which seek to ensure that it would be.

Very special circumstances

23. I have found that the proposal would be inappropriate development in the Green Belt and would cause significant harm to the openness of the Green Belt. In addition, it has not been adequately demonstrated that the proposal would be safe from flood risk.
24. I note the personal circumstances of the appellant, including their desire to live in Hoveringham, as well as the potential contribution the proposal could make to housing land supply, local economic benefits from construction, and support for local facilities and services, although these would be necessarily limited by the scale of the proposal. I also note that notwithstanding the substantive Green Belt and flood risk issues, the design and appearance of the proposal would be appropriate to its surroundings.
25. As any harm to the Green Belt carries substantial weight, I do not consider that the harm I have found by virtue of inappropriateness and significant harm to openness is outweighed by these other considerations. As such, very special circumstances cannot exist.
26. The proposal is therefore contrary to Spatial Policy 4B of the Core Strategy and guidance in the Framework on protecting Green Belt land.

Other Matters

27. I note that there is an element of third-party support for this proposal. Whilst that support is material to my decision on this appeal, it does not outweigh the harm, and conflict with the development plan I have found above.

Conclusion

28. For the reasons given above I conclude that the proposal conflicts with the development plan and guidance in the Framework on protecting Green Belt land and flood risk. There are no material considerations which indicate that a decision be taken other than in accordance with the development plan. The appeal should therefore be dismissed.

S Dean

INSPECTOR