



Appeal Decision

Hearing Held on 12 October 2021

Site visit made on 12 October 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Appeal Ref: APP/A0665/W/21/3272117

Follyfield Nurseries, Benty Heath Lane, Willaston, Neston CH66 6AG

- 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 Peter Chapman of Follyfield Nurseries against the decision of Cheshire West & Chester Council.
 - The application Ref 20/00495/FUL, dated 7 February 2020, was refused by notice dated 28 January 2021.
 - The development proposed is described as: 'retention of existing static caravan'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the publication of the revised National Planning Policy Framework (the Framework) on 20 July 2021, I provided the main parties with an opportunity to comment on its relevance to the case. I have had regard to the responses provided, including the oral responses during the event, in reaching my decision.
3. At the time of my site visit, it was apparent that the static caravan subject of this appeal (the new caravan) was located on the site. I have dealt with the appeal on this basis.

Main Issues

4. The main issues of this appeal are:
 - i. whether the proposed development would be inappropriate development in the Green Belt;
 - ii. the effect of the proposed development on the openness of the Green Belt; and,
 - iii. if the proposal is inappropriate development in the Green Belt, 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

5. The appeal site forms part of a nursery that was established in excess of 60 years ago. The evidence indicates that the adjacent static caravan has been in its present location for a number of years and is immune from enforcement action.
6. Policy Strat 9 of the Cheshire West and Chester Local Plan Part One 2015 (LP1) is concerned with the protection of the Green Belt and countryside, but it predates the Framework and contains less detail on the circumstances in which development may be regarded as not inappropriate. Consequently, I have used the wording from the Framework, which sets out current national policy on Green Belts.
7. Paragraphs 149 and 150 of the Framework set out the forms of development that are not inappropriate in the Green Belt. Paragraph 149 relates to the construction of new buildings. In planning terms, a caravan is a structure and not a building, thus, the appeal scheme does not fall under any of the criteria in this paragraph.
8. However, paragraph 150 e) states that material changes of use are not necessarily inappropriate in the Green Belt provided they preserve its openness and the purposes of including land within it. It was confirmed at the Hearing that the land that forms the site was previously an area of grass with no specific purpose, due to the proximity of the mature trees. Therefore, I consider that the siting of the new caravan represents a material change of use. Therefore, my conclusions on the next issue will determine whether the scheme is inappropriate.

Openness

9. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to prevent urban sprawl by keeping land permanently open. As such, openness is an essential characteristic of the Green Belt. The Planning Practice Guidance (PPG) states that openness is capable of having both spatial and visible aspects.
10. I accept that the site is not readily visible from areas outside of the nursery. However, the scheme is located on a site which had little or no built development, and there is little before me to indicate otherwise. Thus, in this instance, the change of use of land, through the siting of the new caravan, results in a spatial reduction in the openness of the Green Belt. Given the nature of the scheme, there is moderate harm to the openness of the Green Belt. Nonetheless, paragraph 148 of the Framework requires that substantial weight is given to any harm to the Green Belt.
11. Therefore, for the reasons given above, I conclude that the scheme would have a harmful effect on the openness of the Green Belt and would, therefore, represent inappropriate development. This would be contrary to LP1 Policy Strat 9 and the requirements of the Framework.

Other considerations

12. Paragraph 80 of the Framework states that local planning authorities should avoid isolated homes in the countryside unless there are special circumstances. Such circumstances include the essential need for a rural worker to live permanently at or near their place of work in the countryside.

13. The appellant disputes that a new home in this location would represent an isolated location in the countryside. Built development in the vicinity of the site is limited to predominantly scattered dwellings or rural businesses. This dispersed pattern of development, does not, in my view, reasonably comprise a settlement for the purposes of the development plan. The nearest settlement of any size is Hooton, whilst Willaston is a little further in the opposite direction along Hooton Road.
14. Both Hooton and Willaston are within walking distance of the site and although Hooton has a limited number of shops and services compared to Willastaon, I noted its Train Station, which the appellant considers to provide a regular and reliable service. The Council did not dispute this assertion at the Hearing. Although, Benty Heath Lane does not benefit from a formal footpath or street lighting, it was obvious that the grass verge on the same side of the road as the nursery is well trodden in the direction of Hooton Road. In any event, the section of Benty Heath Lane between the nursery access and Hooton Road is modest, where some street lighting and footpaths exist. Thus, the appeal site, due to its location, would not constitute an isolated new home in the countryside. In this respect, I consider that the scheme complies with the strategic objectives of LP1 Policies Strat 1 and 2.
15. I have been made aware that the total labour requirement varies throughout the year from only day to day maintenance and a member of staff to cover the retail element during winter, compared to approximately 400 hours a week during the peak period between March and May. During the peak period, the appellant, his wife and 6no. migrant workers comprise the workforce. The appellant considers that there is an essential need for someone to live on the appeal site to provide supervision and security, confirming that incidences of trespass at the nursery have notably reduced since the on-site presence commenced. Nonetheless, there is little before me to indicate why the established static caravan could not provide this function.
16. I have taken into consideration the appellant's concern that their key workers are migrants who would find it difficult and costly to secure a short-term tenancy. I have also noted that 2no. migrants are partners, where it was stated at the Hearing by the appellant that they had have 'made a life' in this country, and that it was the desire of the appellant to provide them with improved accommodation of their own. Additionally, I acknowledge the assertion from the appellant during the Hearing that the new caravan was brought on site to ensure that tensions between migrants from different countries was avoided.
17. I also note comments from the appellant during the hearing to the difficulties in recruiting local workers, which ultimately led to the recruitment of migrant workers approximately 15 years ago. Through, the evidence, including discussions at the Hearing, I acknowledge that it would be clearly advantageous for a further static caravan to be located on the site, as this would remove travel time, provide increased cover and on-site accommodation. However, to my mind, there is little justification provided within the appeal submission to demonstrate that this is the only option available to the business.
18. Whilst noting that the agency currently utilised by the appellant is a market leader in seasonal workers, he confirmed that no other alternative agencies or attempts to recruit non-migrant workers have occurred recently. Thus, I cannot

be certain that the required workforce for the business could not be recruited by other means than the existing agency. The implications of Brexit was also discussed at the Hearing, but it was generally acknowledged that whilst there may be some complications, the full extent is not yet known. The possibility of a temporary permission was also discussed at the event, with the appellant suggesting a period of 10 years. However, given the lack of justification for the new caravan, in this instance, such an approach through a suitably worded condition to ensure that otherwise unacceptable development could be made acceptable is not possible.

19. For all of the above reasons, I do not find that there is a clear operational requirement for the new caravan on the site to support the horticultural enterprise. I therefore conclude that an essential need for a further residential accommodation at the nursery has not been demonstrated. The scheme is therefore contrary to the rural housing and Green Belt aims of LP1 Policy Strat 9, Policies DM 19 and 25 of the Cheshire West and Chester Local Plan Part Two 2019 and the requirements of the Framework.

Other Matters

20. Whilst not specifically cited by the appellant in his submission, I have considered the rights of the existing occupiers of the new caravan under Article 8 of the European Convention on Human Rights 1998, given that they reside on the site for majority of the year. Article 8 affords the right to respect for private and family life and for the home. As this decision would potentially result in the loss of somebody's home, I consider it to be relevant. However, I am of the view that in this case the harm to the Green Belt is such that dismissal of the appeal is a necessary and proportionate response.
21. Furthermore, there is little before me to discount the use of the existing caravan as alternative accommodation for the existing occupiers of the new caravan, especially as it has previously been occupied by other migrant workers for a small part of the year. The appellant clearly works hard and dedicates many hours to the business and has experienced recruitment issues in the past. However, I have considered this appeal scheme on its own particular merits and concluded that it causes harm for the reasons set out above.

Green Belt Balance

22. The appeal scheme has harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness of the Green Belt and the conflict with the purpose of including land within it. Accordingly, there is conflict with local and national planning policy.
23. From the evidence presented to me, both written and orally, there is a compelling case that the new caravan would improve the appellant's ability to recruit and retain migrant workers and further improve the security of the site. However, I am not satisfied that it has been demonstrated that there is an essential need for further rural workers to live on the site.
24. Additionally, whilst I acknowledge the practicalities and convenience for the new caravan to be retained on the site permanently to provide seasonal workers accommodation, these are not special circumstances as set out in the Framework. Furthermore, I have not been made aware of any other

development plan policy which would provide for permanent seasonal workers accommodation.

25. Having carefully considered the benefits of the scheme and all other considerations, I find that individually and cumulatively, they would not clearly outweigh the substantial weight given to Green Belt harm. As such, the very special circumstances needed to justify the change of use of land to accommodate the new caravan in the Green Belt do not exist in this case.
26. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework.

Conclusion

27. For the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Chris Wathen (Agent)

Mr Peter Chapman (Appellant)

FOR THE COUNCIL:

Mr Steven Holmes – (Cheshire West and Chester Council)