



Appeal Decision

Site visit made on 4 January 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2023

Appeal Ref: APP/R0660/W/22/3298453

6 Burford Crescent, Wilmslow SK9 6BN

- 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 David Tommis against the decision of Cheshire East Council.
 - The application Ref 21/2767M, dated 18 May 2021, was refused by notice dated 14 December 2021.
 - The development has been described as the following: "We are applying for change of use for an infill plot of land at the rear of our property from agricultural land to private garden. The land is directly attached to our current private garden and we would like it to form an extension to the garden area. The land is surrounded on two sides by established private gardens, 1 side by agricultural grazing field used for horses and one side by agricultural sheds. There is no direct access to the land other than through our residential property."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit the area of field had been incorporated in to, and was being used as part of, the garden and domestic paraphernalia was present. This appeal therefore seeks retrospective permission for the development, and I have determined the appeal accordingly.

Main Issues

3. The appeal site is within the Green Belt and therefore the main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether any 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 required to justify the proposal.

Reasons

Whether Inappropriate Development

4. Paragraph 147 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight

should be given to any harm to the Green Belt and 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.

5. However, Paragraphs 149 and 150 set out exceptions where development may not necessarily be inappropriate in the Green Belt. The listed exceptions include material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).
6. The Council have referred to Policy PG3 of the Local Plan Strategy 2010-2030 (the LPS) in their reason for refusal. Although this policy largely relies upon the Framework, it does so by reiterating the Framework. Therefore, as the policy omits the exception for material changes of use, I find it does not support such an exception. Consequently, insofar as it is relevant to the appeal before me, Policy PG3 is not consistent with the Framework. I have therefore relied upon the Framework in my consideration of this matter.
7. LPS Policy PG6 was also referred to by the Council in their reason for refusal. However, this policy is silent on Green Belt matters and consequently I do not find it to be particularly relevant to this appeal.
8. As noted above the development has already been carried out with the rear boundary of the original garden having been removed in order to connect the two parcels of land. The extension area currently contains a number of domestic features such as a shed, trampoline and a children's climbing frame. A mixture of hedgerows and fences form two boundaries while an open fence provides the boundary treatment facing out towards the agricultural field.
9. The exception set out under Paragraph 150(e) sets out a non-exhaustive list of changes of use that are not necessarily inappropriate in the Green Belt. As listed above, these include land for outdoor sport, recreation, cemeteries and burial grounds. Although the enjoyment of a domestic garden may include recreational activities, it would also encompass a wider range of uses that exceeds, and would not be similar to the listed examples. Therefore, whilst the list is not exhaustive, I find the development sits outside of the exception set out under Paragraph 150(e).
10. Although the appellant has also referred to the development being limited infilling, an exception set out under Paragraph 149(e) of the Framework, the development before me is not for a new building. Moreover, I am mindful of the appeal decision¹ raised by the Council. Although this was for a significantly different scheme, it is relevant insofar as its interpretation of the exception, which requires the development to be within a village. Consequently, the exception set out under Paragraph 149(e) is not relevant to this appeal.
11. In light of the above, the proposal would therefore not comply with the exceptions set out under Paragraph 149(e) or 150(e) of the Framework, and would be inappropriate development within the Green Belt.

Effect on Openness

12. Paragraph 137 of the Framework identifies that openness is one of the essential characteristics of Green Belts, along with permanence. The openness

¹ Appeal reference: APP/R0660/W/16/3149672

of the Green Belt has both a spatial and visual aspect and the absence of intrusion in one aspect does not mean that there is no impact on openness where an intrusion is found via the other aspect.

13. In this case, the extension to the garden has resulted in the loss of an area of agricultural land where there was no built development. The presence of children's play equipment, a domestic shed and other smaller features cumulatively contribute to the erosion of the open nature of the space. Although the area of bark chippings may be minor this, along with the sleepers that separate it from the grass, further affect the nature of the site.
14. Given that this area is relatively small and would have been discrete from the adjoining land even before the development took place, I find that its contribution to the openness of the Green Belt is more limited. Nevertheless, it would still have made a contribution that has now been eroded as a result of the spatial and visual effects of the change of use and associated proliferation of residential paraphernalia.
15. The proposal would therefore result in an unacceptable effect on the spatial and visual aspects of the openness of the Green Belt. Whilst this loss of openness would be limited, relatively to the Green Belt as a whole, harm to the Green Belt would nevertheless occur. This matter therefore carries substantial weight.

Other Considerations

16. The appellant has provided some evidence that suggests that the area covered by this appeal has been used as a garden for at least the last 10 years. However, the submitted evidence is not sufficient to demonstrate this to definitely be the case. Moreover, no certificate of lawfulness has been provided and it is not within the scope of this appeal to consider whether one should be granted. Therefore, and whilst I am mindful of the possibility that the space may have been used for 10 years, I attribute this matter only modest weight.

Green Belt Conclusion

17. The proposal would amount to inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. These matters carry substantial weight. At most I have attached modest weight to the considerations in support of the proposal. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with the Green Belt aims of Section 13 of the Framework, and in particular Paragraphs 147 to 149.

Conclusion

18. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR