



Appeal Decision

Site visit made on 10 January 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2023

Appeal Ref: APP/A0665/W/22/3305723

Broad Oaks, Fingerpost Lane, Norley, Northwich WA6 8LE

- 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 Ms F Martin against the decision of Cheshire West and Chester Council.
 - The application Ref 21/02641/FUL, dated 18 June 2021, was refused by notice dated 25 February 2022.
 - The development proposed is a new detached dwelling.
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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 National Planning Policy Framework (the Framework) and any relevant development plan policy;
- The effect of the proposal on the openness of the Green Belt;
- Whether the proposal would provide a suitable location for residential development with regard to the development plan strategy;
- The effect on the living conditions of occupants of Broad Oaks, with particular regard to outdoor private amenity space;
- Whether the proposal would provide acceptable living conditions for future occupants, with particular regard to outdoor private amenity space;
- The effect of the proposal on the character and appearance of the area; and,
- 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 in the Green Belt

3. The appeal site is located in the Green Belt. The Framework outlines that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
4. One of the exceptions to inappropriate development in the Green Belt, set out at paragraph 149 (e) includes limited infilling in villages. Policy STRAT9 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (CWCLP1) and Policy DM 19 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (CWCLP2) both indicate that proposal within the Green Belt will be assessed in accordance with/in line with the Framework. Neither the development plan nor the Framework define 'limited infilling in villages'.
5. Norley is identified as a local service centre in Policy R1 of the CWCLP2, within the Green Belt, where certain residential development that is consistent with Policy STRAT8 of the CWCLP1 is supported. The appellant asserts that the site is not inappropriate development within the Green Belt due to its infill location within the village of Norley. My attention has been drawn in this regard to the judgement in *Julian Wood v SSCLG and Gravesham BC* [2015] EWCA civ 195 which is clear that several factors are determinative in deciding whether a site is in a village.
6. The site forms part of a garden area associated with Broadoaks, a detached single storey dwelling located within a ribbon of residential properties along the eastern side of Fingerpost Lane. The appeal site includes a single detached garage and off-street parking area for occupants of Broadoaks and is bound by a hedge to the front and side boundaries. There is a wooded parcel of sloping land to the rear, beyond the short rear garden. The site lies approximately half a mile from the settlement boundary of Norley.
7. There is signage, street lighting and a continuous footway linking the site to Norley. Nevertheless, at my site visit, I saw that the centre of the village and the main built-up area surrounding it are a moderate distance from the appeal sign and site. There is a feel of leaving the village on approach to the appeal site from the centre of Norley due to the gap created by a large field and a moderate climb towards Crofton and the more sporadic development beyond it. The situation on the ground shows the site is clearly separated by open countryside from the more built-up development in the village and there is not contiguous development between the village and the site.
8. Consequently, whilst the appeal site is located within a row of development, the wider pattern of development is such that the site presents itself to be outside the village. Moreover, an ability to walk to the village centre would not overcome the separation in the pattern of development.
9. There is a relatively long, continuous row of residential properties on the eastern side of Fingerpost Lane in the immediate vicinity of the site, from the junction with Cow Lane/Cheese Hill Lane to the detached property known as Crofton. Although the properties are separated from one another by drives and areas of garden, the gaps between them are of relatively limited width, such that they appear as a continuous frontage of built development. As a site of relatively narrow width bounded by development on two sides, the proposal would constitute infill in the context of the existing row of development. Given the scale of the proposal, it would be limited infill.

10. Accordingly, while the proposal would be limited infill, based on the evidence before me and circumstances on the ground, the proposed development would not be in a village. Therefore, the proposal would lie outside the provisions of Paragraph 149 (e).
11. I have had regard to the Council's decision to approve a similar development for one dwelling in close proximity to the appeal site¹. Although the Council, in that decision, considered the site to be in the village envelope, I disagree for the reasons given above.
12. For the above reasons, I conclude that the development has not been demonstrated to fall within any of the exceptions outlined in the Framework. It would thereby constitute inappropriate development in the Green Belt. It would conflict with Policy STRAT9 of the CWCLP1 and Policy DM19 of the CWCLP2 as they seek to protect the Green Belt for its identified purposes. For similar reasons, as a location outside of a settlement area, it would not fall within the scope of development permitted under Policy STRAT8 of the CWCLP1.

Openness

13. Openness in terms of the Green Belt has a spatial and visual aspect. The Framework states that 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.
14. Although the scale of the proposed dwelling would be modest, it would replace a significantly smaller garage (adjacent to another single detached garage to be retained for the occupiers of Broadoaks). As a dwelling, the proposal would have a high degree of permanence and introduce a larger building on the predominantly undeveloped garden.
15. Whilst the site benefits from hedged boundaries and the proposed dwelling would be smaller than the majority of dwellings within the immediate row, it would be visible in views along Fingerpost Lane and from within the wider local landscape, particularly given the proposed removal of part of the hedge along the frontage. It would thereby give rise to a loss of both spatial and visual openness in the context of the locality and encroach on the countryside.
16. The harm to openness arising from the development proposed in the context of the existing linear form of development in the area would be moderate. Nonetheless, the Framework requires that substantial weight is given to that harm to the Green Belt.

Location of Housing

17. The Council's spatial strategy seeks to direct new housing to the main settlements which provide good access to services and facilities and so reduce the need to travel. As a site within the countryside and outside of any designated settlement, development is limited to that requiring a countryside location under the terms of Policy STRAT9 in the CWCLP1 and Policy DM19 of the CWCLP2. The proposal would not fit within the types of development listed as acceptable under these policies, nor has it been demonstrated that it could not be accommodated within identified settlements.

¹ LPA Ref:14/01327/OUT

18. Norley is identified as a local service centre in Policy R1 of the CWCLP2. Even if I were to consider the village would be reasonably accessible for future occupiers of the appeal dwelling, which would not be isolated, in the context of paragraph 80 of the Framework, given the proximity to other properties, the location of the appeal site outside the village and not meeting any exceptions listed as acceptable in the development plan would conflict with Policy STRAT9 of the CWCLP1 and Policy DM19 of the CWCLP2.
19. The proposal would deliver 2 modest sized properties (the proposed dwelling and the existing dwelling) and I acknowledge the vision set out in section 3 of the NP to provide smaller properties in the area that may facilitate downsizing and meet the type of dwelling suggested in the Norley Housing Needs Survey. Nevertheless, Policy HOU1 of the NP sets out that new housing outside a settlement boundary will only be permitted exceptionally, where it satisfies the very special circumstances to justify housing in the Green Belt and countryside and delivers affordable housing to meet Norley's housing requirement. No compelling information has been provided to me to suggest either dwelling would be affordable, nor has a mechanism been presented to secure such future occupancy. Therefore, the proposal would conflict with Policy HOU1 of the NP.
20. For the above reasons, I conclude that the proposal would not be in a suitable location for housing having regard to the local development plan strategy, including the requirements of Policies STRAT1, STRAT2, STRAT8 and STRAT9 of the CWCLP1, and Policies R1 and DM19 of the CWCLP2 which, together, seek to direct new development to the most sustainable locations and limit the development in countryside area to that requiring a countryside location.

Living Conditions for occupiers of the existing dwelling

21. Policy DM2 of the CWCLP2 requires new development to include an appropriate quantity and quality of outdoor private amenity space. Policy DM3 also makes reference to the provision of external storage space for bins, vehicles and cycles and importantly states that 'the size and shape of outside amenity space must be carefully considered, and it is recommended that rear gardens are at least equal to the ground floor footprint of a dwelling'.
22. In terms of quantity, the depth of the rear garden area of the existing dwelling is not compliant with the above requirement; however, the majority of the existing garden lies to the side of the dwelling and overall, the amount of outdoor amenity space exceeds the policy requirement. The proposed development would remove most of this area thereby significantly reducing the amount of outdoor amenity space available for the occupants of Broadoaks.
23. Even using the appellant's own figures, the size of the rear garden would fall below the standard advocated in Policy DM3 of the CWCLP2. Although there is no definition of the term 'ground floor footprint' there is no clear justification for excluding bedrooms. As such, the amount of private outdoor amenity space does not accord with the Council's requirements.
24. In terms of quality, the depth of the rear garden is extremely limited and although the land is level, accessible and there may be a preference for small gardens by some occupants, nevertheless, the extent of garden area would not provide sufficient usable outdoor space for a dwelling of this size. Even though the outlook from the proposed rear would not be enclosed by development,

directly to the rear of the site is part of the garden to an unrelated property and there would be no guarantee this open aspect would remain.

25. Consequently, the proposed development would unacceptably harm the living conditions for occupants of Broadoaks with regard to outdoor private amenity space. This would be contrary to Policy SOC5 of the CWCLP1 and Policy DM2 and Policy DM3 of the CWCLP2, which all seek, amongst other matters, good standards of living conditions for existing and future occupants.

Living Conditions for occupiers of the proposed dwelling

26. The proposed rear garden area would be less in area than the footprint of the building; however, the outdoor space also includes an area to the side of the proposed dwelling. The overall outdoor amenity space would be arranged in a single area, making it easily useable for typical domestic purposes and would exceed the footprint of the building.
27. In terms of quality, although the depth to the rear boundary is extremely limited, with the addition of the side parcel of land encompassed as a single area of private outdoor space, the proposed development would provide acceptable living conditions for future occupants of the proposed dwelling with regard to outdoor private amenity space. Therefore, the proposal would comply with Policy SOC5 of the CWCLP1 and Policy DM2 and Policy DM3 of the CWCLP2 in this regard.

Character and Appearance

28. The proposal would introduce a new dwelling within an existing row of properties along Fingerpost Lane. The surrounding dwellings are mostly detached and vary in their size, design and style. Furthermore, there is a range of plot sizes and shapes and although the proposed plot and that remaining for Broadoaks would be smaller than others in the row, the site frontage would be commensurate in width and would not appear incongruous. I agree with the Council's finding that the design, scale and materials of the proposal are acceptable. The proposed dwelling would harmonise with the neighbouring properties and therefore sit comfortably within its context. Moreover, it would be partly screened by existing boundary planting in views from both directions, and so would not be unduly prominent.
29. I therefore conclude that the proposal would not harm the character and appearance of the area. It would therefore accord with Policy ENV6 of the CWCLP1 and Policy DM3 of the CWCLP2. These policies seek to ensure, amongst other things, that new development is in keeping with the prevailing grain, landscape, density, scale, height and appearance of the area.

Other Considerations

30. The proposal would provide economic and social benefits through the construction of the development and the additional contributions of the occupiers to the local economy. Occupants of the dwelling would likely use and provide some support to existing facilities in Norley and nearby settlements. As the proposal is for a single dwelling, such contribution would be relatively modest and, in some cases, time limited. Therefore, the weight I afford to the benefits in those regards is limited.

31. The development would also provide a new dwelling, which would contribute to local housing supply. No clear evidence has been provided to indicate the council are unable to demonstrate a 5 year supply of housing land. In that context, the modest benefits that would arise from the proposed single dwelling carry limited weight.
32. The appellant states that the provision of one new dwelling would also provide a bungalow which reflects local needs. I have no information before me to indicate how the proposed dormer bungalow and the existing bungalow would be delivered as accessible dwellings or for low-cost housing particular to local need, or a mechanism to control such use. Nonetheless, both dwellings could offer suitable accommodation for those wishing to downsize. In any event, given the scale of the proposed development the contribution that the proposal would make to housing supply would be modest and the weight I afford this is limited.
33. Even if I were to agree that there was no harm with regard to traffic, parking, and occupiers of the neighbouring dwelling, the absence of harm is neutral, not a matters to be weighed in favour of the proposal.

Planning Balance and Conclusion

34. The proposal would constitute inappropriate development in the Green Belt and would conflict with one of its purposes and reduce openness in this location. I afford this Green Belt harm substantial weight. I have also found that the proposal would be in an unsuitable location for residential development with regard to development plan policy and accessibility and would fail to provide acceptable living conditions for occupants of Broadoaks with regard to outdoor private amenity space. I collectively afford these harms significant weight.
35. Even when taken separately or together, the other considerations do not clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist.
36. For the reasons given above, the proposal conflicts with the development plan as a whole, the approach in the Framework, and all other relevant material considerations. Accordingly, the appeal is dismissed.

A Veevers

INSPECTOR