



Appeal Decision

Site visit made on 2 February 2023

by David English BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2023

Appeal Ref: APP/Z4310/W/22/3308580

Land Adjacent to Netherley Cottages, Caldway Drive, Liverpool L27 6PA

- 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 Michael Loftus against the decision of Liverpool City Council.
 - The application Ref 21F/1978, dated 30 July 2021, was refused by notice dated 13 May 2022.
 - The development proposed is a new 4 bed 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 policies;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the site's designation as part of a Nature Improvement 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 necessary to justify the proposal.

Reasons

Whether the proposal is inappropriate development in the Green Belt

3. The Framework sets out 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.
4. The Framework also establishes that the construction of buildings in the Green Belt should be regarded as inappropriate development, apart from those exceptions listed in paragraphs 149 and 150. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except where there are very special circumstances that justify it.
5. The Council's Case Officer Report lists an extensive history of planning applications at the appeal site, although I have not been provided with further details or confirmation on the implementation of any permission. In February

2004 a planning application seeking permission to use the site as an agricultural smallholding was returned with the Council confirming that planning permission was not required. Planning permission was subsequently granted in January 2005 (Council Ref 04F/2600) *'to erect a barn, livestock and associated buildings and facilities to allow the keeping of horses for non-commercial recreational use'*.

6. A block of stables and other attached buildings have been erected in one corner close to two of the boundaries of the site. I saw other small structures on the site including a greenhouse and polytunnels, and there were horses, geese and chickens on the site. However, the site did not appear to me to be in agricultural use, the planning application form describes the current use of the site as *'stables & open land'*, and the ownership declaration confirms that none of the appeal site is, or is part of, an agricultural holding.
7. While the appellant does not claim that the proposal is not inappropriate development by reference to any exception given in paragraph 149 of the Framework, it is necessary in the interests of fairness for me to consider this matter in further detail. If I am to conclude that the site is not in agricultural use, and therefore not excluded from the definition of previously developed land (PDL) provided in the glossary to the Framework, it would be possible to construe that the site comprises curtilage land associated with the stables and attached buildings, notwithstanding that I cannot be certain of the planning status of those buildings based on the information before me. However, even if I were to conclude in that context that the site is PDL, to comply with the exception concerning *'...limited infilling or the partial or complete redevelopment of previously developed land...'* given at paragraph 149 g) it is also necessary that the proposed development would *'...not have a greater impact on the openness of the Green Belt than the existing development'*.
8. The proposal is not limited infilling which, in any interpretation of that phrase, would require some gap to be filled by the proposal, and that is not the case here. However, if the site is PDL, I would conclude that the proposal would be a partial redevelopment. I must therefore consider the impact the proposal would have on openness.
9. Notwithstanding the existence of temporary structures and other buildings on the site, and the various vehicles, caravans and other materials I saw on the site which are referred to by the Council, the site is a relatively extensive area of largely open land in the Green Belt on the edge of a built-up area. The land rises up from the Netherley Brook and the proposed dwelling would be situated at the higher part of the site. The site boundaries are defined by various forms of fencing, and by hedges and shrubs of varying height, density and species, interspersed with mature trees. However, partial views into the site through gappy vegetation can be gained from the adjacent playing field, to which there appeared to be no restriction on public access; and longer views are possible from Wood Lane and from a grassed open space area at the junction with Caldwell Drive. Views of the proposal would also be possible from land at the adjoining Netherley Sports and Social Club and, because of the relatively low height of the stables on the appeal site, from the first-floor rear windows of houses at Netherley Cottages.
10. The proposal comprises a large dwelling covering a substantial footprint that would introduce new built form in an elevated position on a part of the appeal

site that is currently open. This would create a spatial change in respect of openness. Significant parts of the proposed building would be visible from various locations. Having regard to its proposed height, position, size and bulk, and the views that could be gained from locations beyond the site, in both spatial and visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing situation. This impact would be moderate, but permanent, and the proposal would not meet the requirements set out at paragraph 149 g) of the Framework.

11. The proposal would not fall within any of the exceptions given in paragraph 149 of the Framework. I therefore conclude that it would be inappropriate development in the Green Belt, and it would fail to meet the Green Belt protection aims of the Framework, with which Policy GI 2 of the Liverpool Local Plan (December 2022) (the Local Plan) is consistent. Paragraph 148 of the Framework requires that substantial weight is given to this harm to the Green Belt. The very special circumstances required to justify the proposal 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.

Character and appearance

12. The appeal site is bounded on two sides by built development, and by the Netherley Brook and a large open space marked out as a football pitch on the other sides. Nearby buildings comprise the Sports and Social Club, which is a modern, red-brick flat-roofed single and two-storey building set within a hard-surfaced parking area and service yard; a modern low single storey pitched roof red brick water works building in a site bounded by tall steel palisade fencing; and the four semi-detached traditional houses at Netherley Cottages.
13. Modern housing estates comprising mainly terraced houses front onto Wood Lane and Caldway Drive and the area is interspersed by grassed open space. There is open countryside between the site and Netherley Road and beyond. In this context and having regard to the screening provided by vegetation along some of the site boundaries, the facing materials to be used, and its scale, design, and location, the proposal would not harm the character and appearance of the area. In this respect, its effect overall would be neutral.

The Nature Improvement Area

14. The Council advise that the appeal site is in a Nature Improvement Area where there is an intention to develop ecological and habitat improvements. The effect of the proposed development on this intention is given as a reason for refusal. However, no further detailed information about the form of improvements envisaged, their extent, or the mechanism for securing their implementation has been provided.
15. Having regard to the size of the site and its current use, and the relatively small proportion of land that would be required to accommodate the proposal, I am not convinced that the proposal would ecologically sterilize the site as has been suggested by the Council. However, without further substantial detail in respect of the Council's expectations on this matter, and in the absence of any proposal from the appellant for specific measures to meet the objectives of Policy GI 7 of the Local Plan, I cannot conclude that the proposal would accord

with the development plan. The proposal would therefore be harmful to the site's designation as part of a Nature Improvement Area.

Other considerations

16. The proposed development would allow the appellant to live on the site and therefore run their stables more efficiently. While this would be a benefit to the appellant, I attribute only limited weight to this matter.
17. The appellant also refers to another case where planning permission has been granted for a housing development in the Green Belt approximately one mile from the appeal site. However, I have no information before me regarding that scheme and I can therefore give this matter little weight.
18. The appellant refers to a previous planning permission granted in 1992 that would have allowed a pair of semi-detached dwellings to be built on the site. However, since that time the site has been designated as Green Belt. The planning policy situation has therefore changed significantly, and I must determine the appeal in accordance with the development plan and other relevant material considerations in place at the time of my decision. I can therefore give no weight to any previous permissions granted prior to the designation of the site as Green Belt.

Other Matters

19. The Council's reasons for refusal include their concern that the proposal, if permitted, would result in there being future difficulty in resisting other development in the Green Belt. However, given the circumstances in this case, and the characteristics of the site and the location, I am not convinced there is a reasonable prospect of similar circumstances arising nearby. In any event, a fundamental principle of the planning system is that each proposal must be determined on its merits having regard to the development plan and other material considerations. This principle is sufficient to allow proper consideration to be given to any future proposals in the Green Belt.

Green Belt balance and conclusions

20. The proposal would be inappropriate development in the Green Belt and this, by definition, would be harmful. It would result in a moderate loss of openness, and this would harm the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. While I have not found harm in respect of the effect of the proposal on the character and appearance of the area, in the absence of evidence to the contrary, the proposal would be harmful to the site's designation as part of a Nature Improvement Area. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
21. In considering the substantial weight to be given to Green Belt harm combined with the other identified harm, relative to the limited benefits, the harm that would arise from the proposal is not clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist. Consequently, the proposal conflicts with the Green Belt protection aims of the Framework and with Policies GI 2 and GI 7 of the Local Plan.

22. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

David English

INSPECTOR