



Appeal Decision

Site visit made on 17 October 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2023

Appeal Ref: APP/A0665/W/23/3321098

The Den, Fox Farm, Northwich Road, Antrobus, Northwich CW9 6JD

- 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 J Storey against the decision of Cheshire West and Chester Council.
 - The application Ref 22/03089/FUL, dated 11 August 2022, was refused by notice dated 28 March 2023.
 - The development proposed is described as 'change of use of land from agriculture to amenity land and temporary retention of play equipment (retrospective)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my visit, the change of use of land had taken place and the play equipment was in situ. I have therefore dealt with the appeal on the basis that planning permission is being sought retrospectively.

Main Issues

3. The main issues are:
 - Whether the development is inappropriate in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the development on the character and appearance of the area; and
 - Whether the 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 development.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt. The Framework establishes that development in the Green Belt is inappropriate other than for specified exceptions that are set out in paragraphs 149 and 150.
5. Paragraph 149 of the Framework addresses new buildings in the Green Belt. One identified exception, 149(b), is the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries, burial grounds and allotments; as long as the

facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

6. Paragraph 150 of the Framework indicates that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 150(e) identifies material changes in use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) as one exception.
7. Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (LP1) indicates that within the Green Belt restrictions will apply to development in line with the Framework.
8. The Council have also referred to Policy DM21 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (LP2) which, amongst other things, states that in the open countryside, outside of settlements, proposals for the extension of residential gardens will not be supported. This is more restrictive than the exception set out at paragraph 150 of the Framework. Accordingly, I have relied upon LP1 Policy STRAT9 and the Framework in assessing whether the development would be inappropriate within the Green Belt.
9. There is disagreement between the main parties as to whether the appeal site is in use as amenity or garden land. The appeal site contains play equipment that is typically associated with a domestic garden and is used for purposes that are incidental to the enjoyment of the dwellinghouse. I find that this supports the Council's contention that the site is being used for purposes akin to that of a domestic garden. However, irrespective of whether the use of the land is 'amenity' or 'garden', my conclusions as to the effect on openness will determine whether the appeal development is inappropriate in the Green Belt.
10. The Framework, at paragraph 137, 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. Openness has both spatial and visual aspects.
11. Whilst the climbing frame, playhouse, and trampoline are all small in scale, their bulk and massing have a spatial impact on the openness of the Green Belt. Furthermore, although the equipment is only glimpsed from the road, it is visible and restricts views across the former paddock thereby reducing the visual perception of openness in the Green Belt. Accordingly, the appeal development does not meet the requirements of the exceptions set out at paragraph 149(b) and 150(e) of the Framework, that for development to be appropriate in the Green Belt it must preserve its openness.
12. Furthermore, although the appeal site is close to buildings that are in residential use, or associated with that use, and is close to the garden of the dwellings it, nonetheless, constitutes an encroachment into the countryside. Consequently, the material change of use and associated play equipment also conflicts with one of the five purposes of the Green Belt.
13. For these reasons, the development is inappropriate in the Green Belt which is, by definition, harmful. It therefore conflicts with LP1 Policy STRAT9 as well as the Framework.

Character and appearance

14. The play equipment is set back from Northwich Road. Due to the screening afforded by the existing hedgerow and existing buildings it is only glimpsed when passing the driveway to the site, and possibly at a distance when the hedgerows that bound the road are without leaves. In such views the play equipment is not prominent and does not appear as intrusive or conspicuous features. Consequently, whilst the openness of the Green Belt is harmed, the appeal development does not have an unacceptable effect on the local landscape character or on the appearance of the area.
15. I therefore find that the development does not harm the character and appearance of the area. It therefore accords with LP1 Policy STRAT9 and LP2 Policies DM3 and DM21 which seek to ensure that development does not harm the character of the countryside.

Other Considerations

16. The play equipment promotes physical activity which is beneficial to health and well-being. Furthermore, its provision means that there is less of a need to travel to community play facilities nearby. The appeal proposal therefore reduces the need to undertake journeys by car. However, whilst the garden area available to the occupants of the Den is limited in size it could, nonetheless, accommodate the play equipment whilst also retaining some lawn for other purposes incidental to the enjoyment of the dwellinghouse. Consequently, such a benefit carries only limited weight.
17. The appellant has indicated that a 3-year temporary permission for the siting of the play equipment on the land would be acceptable, after which time it would be removed, and the site returned to a grass paddock. Nonetheless, a temporary permission would perpetuate an inappropriate development that results in a localised reduction in the openness of the Green Belt, for its duration. I therefore attach limited weight to this matter.
18. I have also had regard to the suggestion, within the appellant's planning statement, of the imposition of a condition to remove permitted development rights for curtilage buildings. However, this would not address the potential proliferation of other domestic paraphernalia within the site which would not fall under such control, but which would have the potential to have some, albeit limited, spatial and visual impact on openness. Accordingly, I attach limited weight to this as a benefit.

Green belt balance

19. Paragraph 147 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
20. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. I have also found harm to the openness of the Green Belt. The lack of harm to the character and appearance of the area and lack of objections from the Parish Council are neutral factors.

21. The other considerations I have identified are of limited weight in favour of the proposal. Consequently, these considerations, along with all other matters identified in the evidence, do not clearly outweigh the identified harm to the Green Belt, either individually or collectively, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

22. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

23. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR