



# Appeal Decision

Site visit made on 5 December 2023

**by Samuel Watson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 January 2024**

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**Appeal Ref: APP/R0660/W/23/3323504**

**The Old Barn, Lees Lane, Newton SK10 4LJ**

- 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 Calum S Oliver against the decision of Cheshire East Council.
  - The application Ref 23/0046M, dated 23 December 2022, was refused by notice dated 4 April 2023.
  - The development proposed is the construction of new access road to existing dwelling.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023. I have determined this appeal in the context of the revised Framework.

## Main Issue

3. The main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
  - The effect of the proposal on the openness of the Green Belt; 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*

4. Paragraph 152 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 153 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. Subject to a number of exceptions, as listed in Paragraphs 154 and 155, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include engineering operations and material changes in the use of land where the

development would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. Policy PG3 of the Local Plan Strategy 2010-2030 (July 2017, the LPS) largely repeats the Framework with regard to the purposes of the Green Belt and the exceptions to inappropriate development. However, the policy does not refer to changes of use. I have consequently afforded this policy only limited weight in my considerations.

6. The host dwelling is accessed via a drive shared with the neighbouring dwelling and outside of the appellant's ownership. The proposal includes the formation of a new private driveway which would cross a public right of way (PROW) and a paddock. The proposal would also require the removal of a number of trees which run along the side boundary of the two dwellings. I understand that the driveway would be bounded by post and wire fencing and would be laid out in gravel.
7. In all, the proposal would involve both engineering works and a change of use of agricultural land to domestic. Therefore, the exceptions set out under Paragraphs 155(b) and (e) of the Framework would be relevant. As such, subject to the proposal preserving the openness of the Green Belt and not conflicting with the purposes of including land within it, it would not be inappropriate development in the Green Belt.
8. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and permanence. Openness has both a spatial and visual aspect, and an adverse impact to either can harm the openness of the Green Belt as a whole.
9. The paddock is an undeveloped and open area that is read in connection with the adjoining agricultural fields. By way of its appearance and the mature boundary of trees, it is clearly discrete from the adjoining residential plots. Lees Lane and the PROW provide public views and appreciation of the paddock's contribution to openness.
10. The laying of the driveway and the erection of fences and gates would introduce built development where none is currently present. I am mindful that, given the nature of the driveway surfacing and fences, their visual impact would be more modest. Nevertheless, the subdivision of the field and extension of the domestic curtilage would be readily visible from both the PROW and Lees Lane. The impact on the spatial and visual aspects would be further exacerbated by any residential paraphernalia or domestic planting which may spread along the driveway. Cumulatively, the proposal would significantly affect the openness of the field and its contribution to the wider Green Belt.
11. Alongside having both a spatial and visual impact on the openness of the Green Belt, the proposal would form an encroachment into the countryside which is contrary to the purposes of including land within the Green Belt set out under Framework Paragraph 143(c). I recognise the scale of the proposal in relation to the Green Belt as whole, as such I find that the harm to its openness would be more limited. Nevertheless, the Framework, under Paragraph 153, is clear that any harm to the Green Belt should be given substantial weight.
12. The appellant has referred to exception 4.iii. of LPS Policy PG3 which covers local transport infrastructure that can demonstrate a requirement for a Green Belt location. On a plain reading of this exception, I find that it relates to works

such as new roads, bus stops or train stations. As such the exception is not directly relevant to this appeal which relates to a private driveway.

13. By harming the openness of the Green Belt and conflicting with the purposes of including land within it, the proposal would be inappropriate development contrary to LPS Policy PG3 as well as Section 13 of the Framework, including Paragraphs 142, 143, 152, 153 and 155 as noted above.

#### *Other Considerations*

14. The appellant has set out in their submissions that they have a disability causing mobility issues, and that the current access arrangements to the site are dangerous and cause them concern. In particular, they make reference to the frequency of vehicles movements and that vehicles have previously had to reverse onto the highway. They submit that the proposal would bypass these concerns by separating the accesses for both properties.
15. Although I note the concerns over the safety of the existing shared access, I have not been provided with any substantive evidence to demonstrate that motorists using the driveway or highway are at any undue risk. However, I am mindful of the appellant's mobility issues and recognise that there is no separate pedestrian route across the shared driveway. Collectively this may be concerning to the appellant and have the potential to lead to conflict with vehicles using the drive. Although the PROW avoids the shared driveway it is unlikely to be appropriate for the appellant given their mobility issues.
16. However, the shared driveway only serves two dwellings and so I find the level of vehicular movements would be low. Similarly, the driveway does not link to any pavements and given the nature of the highway I find it unlikely that it would be regularly used as a pedestrian route. As such, and as the shared section of the driveway is only short, I find that the likelihood of any conflict is fairly modest. Moreover, it has not been demonstrated that this benefit could not be achieved through an alternative less harmful to the Green Belt. I therefore afford this benefit only modest weight.
17. Although other properties in the area may not have shared driveways, I cannot be certain of this from the evidence before me. Moreover, I have not been provided with details to demonstrate the context or circumstances leading to these properties having driveways. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision-makers at the time. Therefore, I cannot make any meaningful comparisons to the appeal scheme before me, which I must consider on its own merits.
18. I am content that the proposal would not harm highway safety or the living conditions of neighbouring occupiers. However, a lack of harm is not a benefit in itself. Consequently, I have afforded these matters neutral weight.

#### *Green Belt Conclusion*

19. 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 consideration 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 LPS Policy PG3 as well as Section 13 of the Framework, including Paragraphs 142, 143, 152, 153 and 155 as outlined above.

### **Other Matters**

20. The appellant has raised that a number of consultation responses stated no objection to the scheme. Whilst this may be the case, it does not preclude me from assessing the proposal or finding differently to these consultees.

### **Conclusion**

21. The proposal is inappropriate development in the Green Belt that causes harm to its openness and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR