



Appeal Decision

Site visit made on 3 January 2024

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2024

Appeal Ref: APP/H4315/W/23/3326825

Valencia Stables, Valencia Grove, Eccleston Park, St Helens L34 2TS

- 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 Alex Holden against the decision of St Helens Council.
 - The application Ref P/2023/0317/FUL, dated 18 May 2023, was refused by notice dated 13 July 2023.
 - The development proposed is change of use from agricultural use to garden attached to house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, the Government published an updated version of the National Planning Policy Framework (the Framework). However, as the Framework's policy content insofar as it relates to the main issues has not been significantly changed, albeit that the numbering of paragraphs has changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.
3. The Council's decision notice, which should clearly and precisely state the full reasons for refusal of the application, only alleges harm to the Green Belt by reason of inappropriateness, even though the Officer Report also refers to harm by reason of loss of openness. This factor notwithstanding, the appeal must be considered anew, and regard will be given to relevant matters relating to the Green Belt.
4. The development described has already taken place. Accordingly, I shall deal with the proposal as one under s73A of the Act¹ for development already carried out.

Main Issues

5. The main issues are:
 - whether the development constitutes inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies, including the effect of the proposal on the openness of the Green Belt.

¹ Town and Country Planning Act 1990 (as amended)

- whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

6. The appeal site is in the Green Belt. It is located to the rear of Valencia Stables, a converted building occupied as a dwelling which sits at the end of Valencia Grove. The garden of the adjacent property Valencia Barn lies to the east and open rough grassed agricultural land lies to the north and west.
7. The Government attaches great importance to Green Belts; the essential characteristics of Green Belts are their openness and their permanence. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. The Council refer to Policy LPD05 of the St Helens Borough Local Plan, adopted July 2022 (LP) in their reason for refusal. This policy sets out the Council's approach to buildings in the Green Belt. It does not specifically address material changes in the use of land, and I have taken this into account in my decision. Nevertheless, criterion 5 of this policy sets out that the curtilage of development should relate appropriately to the size and form of the existing building and landscape features and avoid causing unnecessary further impact on the openness and purposes of the Green Belt. Policy LPA01 of the LP as set out in the Council's Officer Report, further reflects the broad aims of the Framework in relation to inappropriate development in the Green Belt.
9. Paragraph 155 of the Framework lists certain forms of development which 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 155 e) includes material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). Whilst the change of use to residential garden land is not explicitly mentioned, by virtue of the words 'such as' this is not a closed list. As such I am satisfied that it would constitute a form of development which would fall within paragraph 155 e).
10. For the change of use to comply with paragraph 155 e) it is also necessary to consider its effect on openness and the purposes of including land within the Green Belt. The effect on openness has spatial and visual aspects and is not confined to permanent physical works — it also relates to the purpose or use of land.
11. The use of the rectangular parcel of land extends the manicured domestic garden area into a previously rough grassed agricultural field. It has been enclosed by a low timber post and rail fence along the northern and western boundary and a high solid timber fence to the east. The appeal site is slightly higher than the surrounding agricultural land.

12. Notwithstanding the way in which the present occupiers use the land and its current appearance, which I saw at my site visit was mown grass and included one raised bed, domestic activities upon it would be likely to still take place which would contrast with the previous non-domestic use of a field. The contrast of the residential garden is stark when seen alongside the extensive agricultural field directly next to it of which the appeal site was previously a part.
13. Residential gardens can generally be used for any purpose which is part of that use or ancillary to it. Gardens are therefore used for a range of activities, many of which involve the placement of items such as washing lines, tables, chairs, equipment used for children to play or for gardening and can include manicured or structured landscaping. Each of these activities emphasise and are in contrast with the openness of the adjoining land and result in a spread of residential use and activity into the countryside. Even if some of those activities result in only ephemeral or occasional changes, at those times, the spatial and visual openness of the site would be adversely affected.
14. Whilst I can consider imposing a planning condition to prevent the erection of structures, including those that would otherwise constitute being permitted development under the provisions of the GPDO², other effects of the use as I describe above would have harmful impacts upon openness. It would be unreasonable to in effect nullify the benefit of any planning permission by preventing normal domestic activities on the land to such an extent that could conceivably prevent any effects upon openness. Furthermore, even the most temporary or ephemeral activities will cause some harm in that respect to the Green Belt and through encroachment.
15. I conclude that the annexing of the land for residential use is in conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment. Accordingly, it falls outside of any of the listed exceptions in Paragraph 155 of the Framework and thereby constitutes inappropriate development. In addition to the harm arising from inappropriateness, there is some loss of spatial and visual openness for the reasons set out above.
16. As inappropriate development in the Green Belt, the change of use is contrary to Policy LPD05 of the LP in so far as it seeks to limit the effect of development on the openness and purposes of the Green Belt. It fails to meet the requirements of paragraph 150 e) and conflicts with the fundamental aims of the Framework to preserve openness and safeguard the countryside from encroachment, to which I attach substantial weight.

Other Considerations

17. In support of the proposal, the appellant refers me to the Council's Supplementary Planning Document, New Residential Development, 2011 (SPD). Although I have not been provided with a copy of the SPD, even if it requires that new dwellings should include 10m rear gardens, Annex 2 Glossary of the Framework states: 'Supplementary planning documents: Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are

² Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

capable of being a material consideration in planning decisions but are not part of the development plan.'

18. Therefore, while the SPD is a material consideration, it is guidance as opposed to a policy requirement. From the evidence provided, I recognise that no rear garden was provided for occupants of Valencia Stables when the building was converted to a dwelling. However, the large enclosed external area to the front of the dwelling could be used in part as a garden and represents an appropriate form of development that recognises the requirements of the SPD but is also respectful of the context and location of the site in the Green Belt for which there are long standing controls on development.
19. This external space relates appropriately to the size and form of the building and landscape features and avoids causing unnecessary impact on the openness and purposes of the Green Belt, in accordance with Criterion 5 of Policy LD05. Furthermore, it is not unusual for former agricultural buildings that have been converted to dwellings to have gardens of limited size, or shared, or front gardens in order to retain the former agricultural characteristics of the site. Therefore, while a large private rear garden would be desirable to the occupants of Valencia Stables, this would mainly be a private benefit that carries very limited weight in the appeal.
20. I note the appellant's offer to replace fencing on the boundaries of the site with landscaping. This would soften the edge of the residential garden where it abuts open countryside and could limit the harm to openness. However, the annexed land would still result in a distinct and contrasting parcel of land compared to the surrounding countryside and would not address the conflict with the purposes of including land within the Green Belt. It is therefore a matter of limited weight.
21. In addition to softening the effect of the residential use of the land, the appellant suggests that landscaping would screen the northern and western elevations of Valencia Stables. Be that as it may, views of the former agricultural building are not unexpected or at odds with the Green Belt designation and I therefore ascribe this matter negligible weight.
22. The appellant refers me to a planning application approved for a change of use of agricultural land to a garden at 8 Valencia Grove³. While the full details of this case are not before me, I note that there were specific needs of the occupant. In any event this decision was made a considerable time ago, prior to the introduction of the Framework and the LP. As such the circumstance of this permission is not sufficiently similar to the appeal before me to weigh in its favour.
23. It is also asserted that the gardens of adjacent properties are located in the Green Belt and are approximately double the footprint of their associated dwelling. However, there is little information provided as to the circumstances or background of these cases or whether they benefit from any lawful planning status. Therefore, whilst I have given consideration to these examples in my determination, I cannot be sure that they represent a direct parallel to the appeal proposal in respect of the application of green belt policies. In any case, I have determined the appeal on its own merits.

³ LPA Ref: P/2007/1162

Other Matters

24. I note the Council's statement refers, in the introduction, to the erection of a dwelling. However, it is clear from the rest of the statement that this is an error and I am satisfied that it has had no bearing on my determination of the appeal.
25. Although there were no objections to the proposed development, a lack of objection is not a reason to approve unacceptable development.
26. I also acknowledge the appellant's disappointment and frustration with the Council in respect of the Council's handling of the planning application and that the application was submitted in response to officer advice. However, the reasons for the eventual officer recommendation and decision are clearly set out in the Officer Report and communications prior to that point do not have a bearing on the outcome of this appeal, as I have only had regard to the planning merits of the proposal that is before me.

Planning Balance and Conclusion

27. The residential use of the land is inappropriate development in the Green Belt that reduces openness. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The scheme is contrary to Policy LDP05 of the LP.
28. In this case, there are no matters individually or cumulatively that provide anything other than limited weight in favour of the proposal. As such, other considerations amounting to very special circumstances sufficient to outweigh the harm to the Green Belt do not exist.
29. The development would be contrary to the development plan and the Framework read as a whole, and there are no other material considerations to indicate a decision otherwise than in accordance with it.
30. Accordingly, the appeal is dismissed.

A Veevers

INSPECTOR