



Appeal Decision

Site visit made on 7 March 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 10th April 2024

Appeal Ref: APP/A0665/W/23/3330954

**Netherleigh, Mill Lane, Willaston, Neston, Cheshire West and Chester
CH64 1RW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Keith Penny against the decision of Cheshire West and Chester Council.
 - The application Ref is 22/02796/FUL.
 - The development proposed is the erection of a detached 4-bedroom dormer bungalow with an attached double garage.
-

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 openness of the Green Belt;
 - the effect of the proposal on highway safety; 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

Appropriateness of development

3. The appeal site is in the Green Belt. Policy STRAT 9 of the Cheshire West & Chester Council Local Plan, Part One: Strategic Policies (LPP1) outlines that in the Green Belt, additional restrictions will apply to development in line with the Framework.
4. Paragraph 152 of the Framework indicates that inappropriate development is harmful to the Green Belt. Paragraph 154 sets out that a local planning authority should regard the construction of new buildings in the Green Belt as inappropriate, subject to specified exceptions. The two most pertinent exceptions are "limited infilling in villages" and "limited infilling or partial or complete redevelopment of previously developed land ...".
5. The term 'limited infilling in villages' is not defined within the Framework. The explanatory text for LPP1 Policy STRAT 8 defines 'infill' as "the filling of a small

gap, up to two dwellings, in an otherwise built up frontage in a recognised settlement". However, the Framework does not specify that the exception only applies within recognised settlements. It is established caselaw that it is necessary to have regard to the "on the ground" situation as well as any relevant policies. Therefore, the settlement boundary is not determinative in this regard.

6. During my site visit I observed that Willaston is a settlement which is centred around Neston Road, Hooton Road, Hadlow Road and Mill Lane. The appeal site is located toward the northern edge of Willaston outside of the defined settlement boundary. Nonetheless, it is surrounded by development, and I did not observe a break in development between the appeal site and the centre of the settlement. Consequently, I find that the appeal site is located within the village of Willaston.
7. The appeal site is accessed via a private driveway leading from Mill Lane. A few properties are accessed from the lane, but the only properties that front onto it are Canonbury, Swaynes Jumps and Priors Knock. The proposed dwelling would also front onto the driveway but either side of its frontage would be The Poppies' side boundary and Netherleigh's rear boundary. Although the proposal would lead to the filling of a small gap, through the construction of one dwelling, it would not be in an otherwise built-up frontage. Therefore, I do not consider that the proposal would be limited infilling in a village, as per the definition set out in LPP1.
8. I understand that the land was previously used as an air raid shelter. However, it is not disputed that the existing use of the appeal site is as a garden. The Framework defines 'previously developed land' as land which is or was occupied by a permanent structure but excludes land in built-up areas such as residential gardens. Therefore, in accordance with the Framework, the appeal site is not previously developed land as it is a residential garden in Willaston. For these reasons, the proposal could not be defined as limited infilling or partial or complete redevelopment of previously developed land.
9. The development of 6 houses at Hanns Hall Livery¹, the construction of The Poppies², and a three-storey house³ nearby were all permitted in the Green Belt. However, those developments could be defined as the redevelopment of previously developed land or limited infilling in a village. As such, those cases are materially different and do not set a precedent for the appeal proposal. The appellant has also indicated that the development of Canonbury and Swaynes Jumps set a precedent for the appeal scheme. Nevertheless, it is not clear when they were constructed, whether they required planning permission, and, if so, the most pertinent details of those applications. As such, they do not set a precedent for the appeal scheme and, in any event, every proposal is assessed on its own merit.
10. As the appeal proposal includes the construction of a building and it would not form one of the exceptions, specified in paragraph 154 of the Framework, it would be inappropriate development in the Green Belt. Consequently, the proposal would conflict with LPP1 Policy STRAT 9, for the reasons set out above.

¹ Appeal ref. APP/A0665/W/19/3232921

² Application ref. 17/00417/FUL

³ Application ref. 23/02169/S73

Openness

11. Paragraph 142 of 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. Openness has a spatial aspect as well as a visual aspect.
12. Through the construction of a dwelling, the proposal would introduce a substantial amount of built development to the appeal site, which is generally free from development. Whilst the proposal would be less conspicuous than if it was sited in open countryside and views of the proposed dwelling would be largely screened from Mill Lane, it would be prominent in views from neighbouring land and properties. Even if the proposal was fully screened in views from Mill Lane, it would not lessen the impact of the proposal on the openness of the Green Belt, as the openness would be reduced by virtue of the spatial aspect of the proposal.
13. It has been put before me, that the proposal would have less of an effect on openness than nearby permitted development. As above, the most pertinent details of those proposals are not before me, including what was located on those sites prior to the construction of the dwellings, so I cannot make a comparative judgement.
14. Overall, the proposal would cause significant harm to the openness of the Green Belt. For these reasons, it would conflict with paragraph 142 of the Framework and, consequently, LPP1 Policy STRAT 9.

Highway Safety

15. Netherleigh currently benefits from two accesses. Based on the evidence before me, there is no restriction on the use of either access. In theory, Netherleigh could be accessed entirely from the private driveway. As part of the appeal proposal, the proposed dwelling would utilise Netherleigh's existing access from the private driveway and Netherleigh would no longer be accessible from this access.
16. The proposed dwelling includes 4-bedrooms; the number of bedrooms within Netherleigh is not before me. Nonetheless, given the respective size of the dwellings, a similar number of people would reside in both Netherleigh and the proposed dwelling. As such, the increased use of the driveway from activity related to the proposed dwelling would be offset by the removal of access to Netherleigh. Therefore, the proposal would not lead to an intensification of use of the driveway.
17. The private driveway is narrow, includes no passing points, and, based on the evidence, is unable to be widened. Moreover, visibility is limited when exiting the private driveway onto Mill Lane due to the presence of tall vegetation close to the junction. Nevertheless, as this section of Mill Lane is narrow, vehicles are likely to travel at relatively low speeds. Furthermore, as there are several accesses along this section of the road which have limited visibility due to the presence of tall vegetation, pedestrians, cyclists and drivers would reasonably anticipate slow moving vehicles exiting these accesses. There is only evidence of one accident along this section of Mill Lane. This indicates that there is not an existing highway safety problem.

18. Given that there would be no intensification of use of the driveway and there is not an existing problem, I conclude that the proposal would not have a harmful effect on highway safety. The proposal would comply with LPP1 Policy STRAT 10 and Policy T5 of the Cheshire West & Chester Council, Local Plan (Part Two) Land Allocations and Detailed Policies. These policies indicate that new development will be required to demonstrate that additional traffic can be accommodated safely and satisfactorily within the existing highway network and proposals should make safe provision for access to and from the site.
19. The second reason for refusal indicates that the proposal is contrary to the Cheshire West & Chester Council Local Plan Supplementary Planning Document: Parking Standards, February 2022. It has not been specified how the guidance is pertinent to the reason for refusal. I therefore cannot conclude that the proposal is contrary to it.

Very special circumstances

20. Benefits of the proposal include the provision of an additional house which would contribute to the supply of housing in the area. There would also be economic benefits associated with the construction of the dwelling and an increased population living in the area. Such benefits attract moderate weight given the modest scale of the development.
21. Paragraph 153 of the Framework specifies 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 resulting from the proposal, is clearly outweighed by other considerations. I have concluded that the appeal scheme would be inappropriate development and is, by definition, harmful to the Green Belt. I have also found significant harm to the openness of the Green Belt.
22. The other considerations I have identified are of moderate weight in favour of the proposal. As such, I find that the other considerations in this case do not clearly outweigh the substantial harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Other Matters

23. The proposal not having a harmful effect on neighbouring residents' living conditions, with regard to their outlook and privacy, is a neutral factor. Similarly, I note the comments made by the appellant regarding how the application was dealt with. However, this is a matter between the parties and has not been determinative in my consideration of the appeal.

Conclusion

24. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR