



Appeal Decision

Site visit made on 27 March 2024 by Darren Ellis MPlan MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/M1005/W/23/3333286

10 Upper Marehay Road, Marehay, Ripley, Derbyshire DE5 8JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Travers against the decision of Amber Valley Borough Council.
 - The application Ref is AVA/2023/0563.
 - The development proposed is the erection of 1 no. dwellinghouse.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The application was submitted in outline with all matters except for access reserved for subsequent approval. I have therefore taken account of the submitted plans as being indicative except where they relate to access.

Main Issues

4. The main issues are a) whether the proposal would be inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt; and c) if it would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons for the Recommendation

Inappropriate Development

5. The National Planning Policy Framework (the Framework) establishes that new buildings in the Green Belt are inappropriate except in certain circumstances. Paragraph 154 e) refers to limited infilling in villages and paragraph 154 g) the limited infilling or partial or complete redevelopment of previously developed land.
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6. The appeal site comprises the side garden area and the detached garage of No 10 Upper Marehay Road. The term 'infilling' is not defined in the Framework and therefore a matter of judgement. Policy H4 of the Amber Valley Borough Local Plan 2006 (LP) allows for infilling of small gaps capable of accommodating no more than 2 dwellings within existing groups of houses and, whether this policy is out of date or not, it provides some assistance in defining such development.
7. Whilst I would be content in describing the appeal site as being in a village and as a single dwelling the appeal scheme would be limited, infill is normally taken to relate a gap between existing development, often in an otherwise built-up frontage. As there is a substantial area of woodland to the western side of the site and a considerable distance to the next building on the northern side of the road, one could not reasonably conclude that development of the site would be infilling. More of a bolt on to the edge. As such the proposal would not sufficiently relate to the exception under paragraph 154 e) of the Framework.
8. Being part of a village, it would be fair to define the appeal site as being in a built up area. As a residential garden however, the appeal site would not be included in the definition of previously developed land for the purposes of the Framework. Accordingly, the proposal would not fall under the exception in paragraph 154 g) of the Framework.
9. My attention has been drawn to previous appeal decisions in Cheshire West and Chester¹ (CWC) and Amber Valley² (AV) which have allowed limited infilling in a village. While the CWC schemes seem to have some distance between the appeal sites and the nearest buildings, the distances do not appear to be as large as that between the current appeal site and the nearest building to the west. Furthermore, the AV appeal site seems to have buildings on three sides, which is not the case in the proposal before me. I am not therefore persuaded that the examples are sufficiently similar to the appeal scheme before me to alter my findings on this main issue.
10. Given that the proposal would not constitute an exception under the aforementioned paragraphs, or any other exception within paragraphs 154 or 155 of the Framework, the proposal would be inappropriate development. This is, by definition, harmful to the Green Belt.

Openness

11. Openness is an essential characteristic of the Green Belt. Planning Practice Guidance states that openness is capable of having both spatial and visual aspects, so that both the visual impact of the proposal and its volume may be relevant.³
12. The construction of a new dwellinghouse on the appeal site would undoubtedly reduce both the spatial and visual aspects of the openness of the Green Belt. That said, and although indicative, the submitted drawings show that the existing garage would be removed. As such it could theoretically be possible for the proposal to have a neutral effect on openness if the new dwelling were to be the same size as the existing garage.

¹ Appeal refs. APP/A0665/W/14/3000557 and APP/A0665/W/20/3247387

² Appeal ref. APP/M1005/W/23/3315869

³ Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

13. Nevertheless, I have no details before me of the proposed layout or scale of the new dwelling as these are reserved matters. I am not convinced a reasonable condition could be used to secure such an outcome at reserved matters. Mainly because it may unfairly fetter a future scheme for an applicant or potentially give rise to harm in other ways such as the character and appearance of the area. With this in mind, I cannot be sufficiently sure that a new dwelling on the appeal site would not cause harm to the openness of the Green Belt in either spatial or visual terms. Since one of the fundamental aims of Green Belt policy is to keep land permanently open, this would result in further harm to the Green Belt, as well as that caused by the appeal scheme's inappropriateness.

Other Considerations

14. The provision of one additional unit would make a limited meaningful difference to the existing supply of housing. Economic advantages would arise from the construction and occupation of a new house, although these would be limited again by the scale of the scheme, and some would only be temporary. I therefore ascribe moderate weight to these matters.
15. No further details of any planning permissions for housing developments in the Green Belt on Upper Marehay Road⁴ have been provided so I am unable to compare the reasons for allowing them against my findings here. I am unsure, specifically, whether any of these sites constituted limited infilling in a village or limited infilling or redevelopment of previously developed land. Furthermore, the developments were for 12, 45 and 54 residential units respectively, and therefore there may have been a much greater impact on the housing supply than in the case before me. I therefore attach limited weight to these matters.

Conclusion and Recommendation

16. The Council states that saved LP Policy EN2, which relates to development in the Green Belt, is out-of-date. As such paragraph 11 d) of the Framework should be applied. Paragraph 11 d) i) and footnote 7 state that permission should be granted unless policies in the Framework that protect areas of particular importance, including the Green Belt, provide a clear reason for refusing the development proposed.
17. Even if the proposed dwellinghouse was to have a neutral effect on the openness of the Green Belt as I have alluded to above, the proposal would still cause harm by way of inappropriateness, to which substantial weight should be afforded. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. I have referred to these above and it is sufficiently clear that they would be incapable of outweighing the harm to the Green Belt I have found. Consequently, the very special circumstances necessary to justify the appeal scheme do not exist. As such, there is a clear reason for refusing the proposal. Neither paragraph 11 d) ii) nor the presumption in favour of sustainable development therefore apply in this particular case.
18. The appeal scheme would conflict with the Green Belt protection aims of both saved Policy EN2 and the Framework for the reasons I have set out. There are no material considerations, including the approach of the Framework and

⁴ Planning application refs. AVA/2016/0423, AVA/2017/1264, and AVA/2021/0377

worthy of sufficient weight, that would indicate a decision other than in accordance with the development plan. I therefore recommend the appeal be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

John Morrison

INSPECTOR