



Appeal Decision

Site visit made on 24 September 2024

by S. Hartley BA (Hons) Dist.TP (Manc), DMS, MRTPI, MRICS

an Inspector appointed by the Secretary of State

Decision date: 30 September 2024

Appeal Ref: APP/A0665/W/24/3345167

Meadow View, Upper Raby Road, Neston, CH64 7TY

- 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. Foley against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/03094/FUL.
 - The development proposed is the erection of a new single storey dwelling (with room in roof space) on land adjacent to existing property.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 30 July 2024 the Government began consultations upon reforms to the National Planning Policy Framework (the Framework) which closed on 24 September 2024. The reforms are draft and may be subject to change and therefore I afford the draft changes only limited weight in the decision-making process. As there are no proposed reforms which are pertinent to the main issues in this appeal, it has not been necessary for me to consult the main parties upon it.

Main Issues

3. The appeal property is located within the Green Belt.
4. The main issues are (i) whether the proposed development is inappropriate development within the Green Belt including its impact upon openness; (ii) whether the proposal would provide a suitable site for housing, having regard to the proximity of services and sustainable modes of transport, and (iii) if the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances to justify development.

Reasons

Whether inappropriate development

5. The explanation to Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part 1) 2015 (LP) states that, in line with national planning policy, inappropriate development is by definition, harmful to the Green Belt and should not be allowed except in very special circumstances. The construction of new buildings within the Green Belt is considered inappropriate. However,

exceptions to this are identified and which generally accord with the Framework.

6. Paragraph 152 of the Framework also states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 154 makes it clear that, other than in specified circumstances, new buildings are inappropriate development. However, paragraph 154 permits as exceptions *'limited infilling in villages'* and *'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority'*.
7. The appellant, in the planning statement accompanying the application, considers that the site *'is located between existing dwellings along this side of Upper Raby Road, characterised as an infill plot, which clearly forms part of a built-up frontage'*. However, the appellant also recognises that *'the site is outside the settlement of Neston as defined within the Local Plan'* even though *'the neighbouring properties are part of the settlement where residents of this part of Upper Raby Road, including the applicants consider themselves to be part of Neston'*.
8. The local planning authority (LPA) considers that the appeal site is approximately 400 metres from the settlement boundary of Neston, while the appellant considers it to be within 500 metres. Either way, the settlement boundary is not in itself determinative as to the extent of the settlement of Neston.
9. While the appellant considers Neston to be a village, on my site visit I was able to see that it has at least two nationally known superstores, a train station, a large number of housing estates, educational facilities and a range of shops and services. For these reasons, I consider it to be a town rather than a village in terms of the exception to Green Belt policy. However, even if it could be described as a village, I was able to see that, on leaving the main urban area and settlement boundary, the area becomes a more peripheral and semi-rural area, clearly distinguishable from the more built up pattern of development in Neston itself.
10. Therefore, I find that the appeal site lies within the Green Belt outside of the settlement of Neston, both in terms of the settlement boundary and as a matter of fact on the ground. Even if one were to describe Neston as a village, I consider that the proposed development would not be 'in' such a village.
11. The exceptions to Green Belt policy also include *'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings)'* subject to limitations relating to impact upon openness. The Framework defines previously developed land as *'land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or*

waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape’.

12. The appellant describes the appeal site as one which has *‘historically operated as a garden nursery business and the applicants purchased the site in 1992’*. On my site visit I was able to note that, while part of the proposed dwelling would be sited on mown grass adjoining and to the side of the existing dwelling at the nursery, the rest of it and its proposed rear amenity land would be on land more appropriately described as part of the garden nursery itself.
13. However, both uses would exclude the site from the definition of previously developed land for Green Belt purposes. A garden nursery is an agricultural use of land, while curtilage land to the dwelling would be in a built up area, despite being outside the settlement boundary, and therefore neither uses would meet the definition of previous developed land. Moreover, the latter development is subject to the provisor that it would not have a greater impact upon the openness of the Green Belt than the existing development.
14. For the above reasons, I conclude that the proposed development would constitute inappropriate development, contrary to policy STRAT9 of the LP and the Framework. This is a matter to which I afford substantial adverse weight in decision making terms.

Effect upon the openness of the Green Belt

15. 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’*.
16. The appeal proposal would be visible from Upper Raby Road. In considering the impact of the development in both spatial and visual terms, I conclude that it would reduce the openness of the Green Belt to a limited extent.

Suitable site

17. Given the proximity of adjoining development, the proposal would not be physically isolated, and the appellant considers that the site is within 500 metres of the settlement boundary, though further to the centre, and within walking distance of shops, schools and the train station.
18. One extra dwelling would help to increase spending in the area and would thus help to maintain, to a limited extent, local services and facilities, though these too are limited in the immediate area.
19. The shortest route to Neston is along a generally level footpath, though not all of its length is lit. I have no information before me as to the availability or frequency of public transport, and while walking and cycling are alternatives, I consider that future occupants of the proposal would be more likely to rely upon private motor vehicles to access services. In arriving at this conclusion, I am mindful that the Framework advises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

20. Therefore, on balance, I conclude that the proposed development would not be a sustainable site in terms of its proximity to services and because of the likely reliance upon car based journeys. It would not accord with the accessibility objectives of policies STRAT1 and STRAT2 of the LP.

Other Considerations

21. The appellant considers that the proposed dwelling should be regarded as 'enabling development' to retain the viability of the nursery business along with the associated jobs and training opportunities in cooperation with the local education authority and local schools and colleges. He considers that it would help to promote and sustain the rural economy.
22. Enabling development in the form of new construction is more usually associated with the promotion, retention or enhancement of heritage assets where capital investment without it would be uneconomic. The amount of finance to be invested in the heritage asset in this way is generally measurable and enforceable.
23. In the present case, any funds to be generated by the proposed dwelling would not necessarily be for capital works but rather would be for the ongoing running costs of the business. Even if this were to be regarded as an acceptable part of enabling works, I have no details as to how exactly any such income might be utilised in the business, how much of it and for how long. Moreover, I have not been provided with any financial information (e.g., business accounts) to demonstrate objectively that the nursery business requires such a financial input.
24. The appellant considers that permitted development rights exist, and which would have a similar impact to the proposed development upon the openness of the Green Belt. However, I have no such details before me, or whether in fact, such permitted rights do exist or in what form. Even if permitted development rights were to exist, I am not persuaded that this demonstrates more than a theoretical possibility of alleged permitted development being implemented if this appeal were to be dismissed. For these reasons, I can only afford this matter limited weight in the overall planning balance.

Planning Balance and Conclusion

25. The proposal would be inappropriate development within the Green Belt, would cause harm to openness and would not be a suitable site for housing in so far that it would not be sustainably located. I afford these harms very substantial adverse weight in decision making terms. In this case, the harm by reason of inappropriateness in the Green Belt, and the other identified harm, is not clearly outweighed by other considerations so as to amount to very special circumstances to justify development. Consequently, I conclude that the appeal should be dismissed.

S. Hartley

INSPECTOR