



Appeal Decision

Site visit made on 21 November 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2024

Appeal Ref: APP/R0660/W/24/3345798

Land at Dark Lane, Gawsworth SK11 9QZ

- 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 P Dean against the decision of Cheshire East Council.
 - The application Ref is 23/3740M.
 - The development proposed is infill development of two detached bungalows.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Cheshire East Council against Mr P Dean. This application is the subject of a separate decision.

Preliminary Matters

3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration of very significant weight, the weight I give to the changes in the draft Framework is limited given that no final document has been published and it is subject to potential change in the future. Consequently, in reaching my decision I have therefore had regard to the Framework published on 20 December 2023.

Main Issues

4. The main issues are:
 - whether or not the proposal is inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect on the character and appearance of the area; 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 necessary to justify the development.

Reasons

Whether inappropriate development

5. The appeal site is located within the Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of the Green Belt being their openness and permanence. The Framework 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.
6. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. One such exception, criterion (e), being limited infilling in villages.
7. Policy PG 3 of the Cheshire East Local Plan Strategy 2010 – 2030 (2017) (LPS) mirrors the wording of the Framework in respect of the construction of new buildings in the Green Belt, including the listed exceptions.
8. Policy PG 10 of the Cheshire East Local Plan Site Allocations and Development Policies Document (2022) (SADPD) sets out the approach in relation to 'infill villages' and provides a list of settlements which are defined as infill villages, with their boundaries shown on the adopted policies map. The policy states that outside of these infill village boundaries, development proposals will not be considered to be 'limited infilling in villages' when applying LPS Policies PG 3 and PG 6.
9. Policy G1 of the Gawsworth Neighbourhood Plan (2021) (GNP) states that beyond the infill boundary, infill development will only be supported in accordance with Policy PG 6 of the LPS. Policy PG 6 allows for the infill of a small gap with one or two dwellings in an otherwise built-up frontage elsewhere.
10. There is common ground between the parties that the appeal site does not fall within the defined infill village boundary of Gawsworth, which is situated to the south of the appeal site.
11. Paragraph 154 (e) of the Framework does not specify that a site must be located within a defined village boundary in order to constitute limited infill within a village. However, I recognise that both the SADPD and the GNP have been adopted fairly recently and have therefore been through a public examination and found to be sound.
12. Nevertheless, the appellant has referred to established case law¹ (Wood case) and this is a material consideration that is relevant to the appeal proposal. In the Wood case it was found that the boundary of a village defined in a local plan may not be determinative in considering whether a site is within a village and regard should also be had to the 'on the ground' situation.
13. In this regard, two appeal decisions² for a similar development at the appeal site both concluded that, whilst outside the infill development boundary, the appeal site is within the village of Gawsworth and these previous appeal decisions are a material consideration of significant weight. Furthermore, there is common ground between the main parties that, whilst outside the infill development boundary, the

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWVA Civ 195

² APP/R0660/W/19/3236214 and APP/R0660/W/20/3261605

appeal site is within the village of Gawsworth and no evidence has been presented for me to reach a different conclusion on this matter.

14. With regard to infill, whilst the Framework does not include a definition of 'limited infilling', SADPD Policy PG 10 and GNP Policy G1 both define limited infilling as "*the development of a relatively small gap between existing buildings*". These policies however do not define what is "*a relatively small gap*" and my attention has been drawn to the Tate Court of Appeal judgment³ where it is established that whether a development constitutes limited infill or not is a matter of fact and planning judgement for the decision maker. I have therefore reached my own conclusions on this matter based on the evidence before me and my observations on site.
15. The appeal site consists of overgrown vegetation and is enclosed by timber fencing, with a hedgerow fronting onto Dark Lane. Open fields lie to the rear and on the opposite side of Dark Lane, with a track running directly to the southeast of the site providing access to the fields at the rear.
16. The site represents a significant gap between the detached dwellings known as The Oaks and Chestnut Tree. When viewed objectively in the context of the surroundings, I found The Oaks represents the last property in a continuous linear row of detached dwellings fronting onto the northeastern side of Dark Lane. Chestnut Tree however, as a result of the significant gap, appears physically detached from this row and therefore represented a more isolated dwelling that does not form part of the built-up frontage along Dark Lane.
17. The appellant has provided spatial analysis to demonstrate that the width, depth and area of the proposed plots would be comparable to other plots along this section of Dark Lane. However, I observed on site that the gap itself appears visually wide and this is exacerbated by the property at The Oaks being set a significant distance from its side boundary. This results in the gap between the built development at The Oaks and Chestnut Tree appearing substantial when viewed from Dark Lane.
18. As such, I find the distance between the existing dwellings either side of the appeal site to be substantial in the context of the surroundings and I therefore conclude that the proposal would not infill a relatively small gap between existing buildings and therefore would not represent limited infilling.
19. Furthermore, two previous appeal decisions for the erection of two dwellings on this site have been dismissed on the grounds that the proposal does not represent infill development. These appeal decisions are a material consideration of significant weight and from what I observed, the situation on the ground, specifically the size of the gap, has not changed since these appeals were dismissed.
20. I note that the current appeal scheme has been amended in comparison to the previous appeal scheme, with the detached double garages removed from the proposal. However, these amendments do not overcome the matter of the gap itself not being relatively small and therefore does not alter that the proposal would not amount to limited infilling in the local context. Furthermore, the adoption of both the SADPD and the GNP since the previous appeal decision was determined has not altered the on-site assessment as to whether the proposal represents limited infilling.

³ R (Tate) v Northumberland County Council v Susan Leffers-Smith [2018] EWCA Civ 1519

21. My attention has been drawn to other appeal decisions and decisions made by the Council which relate to infill development. In respect of the planning decisions⁴ made by the Council, whilst I acknowledge consistency of decision making is important to ensure public confidence, I am not bound by previous decisions of the Council and I have exercised my own judgement on the appeal proposal.
22. With regard to the appeal decision at Seven Sisters Lane⁵, I acknowledge the Inspector gave consideration to the wider site context rather than relying upon the numerical distance of the gap, and I have done the same in my consideration of the appeal scheme before me. However, I have not been provided with a wider context plan of the scheme at Seven Sisters Lane and in any case, I note that this appeal site was adjoined on three sides by existing development. The site context is not therefore directly comparable to the appeal site before me which is adjoined by open fields to the rear. Similarly, the appeal site at Welsh Row⁶ was also assessed against the surrounding context but appears to be adjoined by residential development on three sides and thus the surrounding context is also not directly comparable to the scheme before me.
23. The appeal at Frog Lane⁷ was for one dwelling and is therefore not directly comparable to the current appeal proposal for two dwellings, nevertheless I again acknowledge this case was assessed against the wider site context. The appeal at Thorn Cottage⁸ was dismissed because the Inspector found the significant distance to the properties to the south did not form a built-up frontage and the frontage of the proposed plots would be significantly wider than the narrower plots to the south. The Inspector concluded that the proposal would not therefore represent limited infilling within a village. I do not therefore find the appeal decision at Thorn Cottage lends support for the appeal scheme before me other than again highlighting the need for contextual assessment of infill development.
24. In view of the above, whilst I have reviewed the decisions provided, each case must be treated on its own merits and as detailed earlier I have made a planning judgement based on the evidence before me and my observations on site. Ultimately, what is considered 'limited infilling' in one scenario may not be directly comparable to another as various matters need to be considered and taken into account. Therefore, and as shown within the appeal decisions referenced, whether a proposal represents 'limited infilling' is dependent on the context of the specific site and its surroundings.
25. Furthermore, and as mentioned previously, there are two previously dismissed appeal decisions for similar developments on the appeal site, as well as a third dismissed appeal⁹ for a single dwelling on the site. These previous appeal decisions did not consider the proposals represented limited infilling in the context of the surroundings. As these decisions relate specifically to the appeal site they are evidently more relevant to the appeal scheme before me than the other infill decisions advanced by the appellant at other locations, with differing site contexts.
26. In summary of all the above, I conclude that the proposal does not represent limited infilling and therefore does not qualify as an exception under the Framework test at paragraph 154 (e). The proposal would therefore conflict with

⁴ LPA Refs: 22/4205C; 19/1548M; 19/3890M; 16/0647M; and 16/5587/M

⁵ APP/R0660/W/17/3185237

⁶ APP/R0660/W/21/3288419

⁷ APP/R0660/W/18/3211980

⁸ APP/R0660/W/16/3159706

⁹ APP/R0660/W/17/3171643

the Green Belt principles as set out in LPS Policy PG 3 and Policy PG 10 of the SADPD, as well as the infill requirements of GNP Policy G1. Consequently, when judged against the wording of both local and national policy, the proposal represents inappropriate development in the Green Belt.

27. I note LPS Policies MP 1, SD 1 and SD 2 are referred to in the Council's reason for refusal. However, these policies do not relate to the main issue of the principle of development within the Green Belt and are therefore not determinative in relation to this matter.

Effect on openness

28. Paragraph 142 of the Framework sets out that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. Openness has spatial as well as visual aspects.
29. The appeal site is devoid of any structures, except for the timber fencing defining its boundaries and a post and rail fence which runs through the centre of the site. Whilst the vegetation on the appeal site is overgrown, in its present state, the site makes a positive contribution to the openness of the Green Belt.
30. The erection of 2no. single-storey dwellings, along with the associated works and domestic paraphernalia, would result in built development that would occupy a space that is currently not built upon, except for the existing fencing. The appeal proposal would inevitably therefore reduce the spatial openness of the Green Belt. Furthermore, the appeal proposal would not safeguard the countryside from encroachment, and thus conflicts with one of the five purposes of the Green Belt, as specified at paragraph 143 of the Framework.
31. In visual terms, the proposed dwellings, along with the associated works and paraphernalia, would also be visible from public vantage points along Dark Lane. As such the appeal proposal would have a greater visual impact on openness than the existing site.
32. In view of the above, the development for 2no. dwellings into an area of land that is currently vacant and devoid of any built development, with the exception of the existing fencing, would have a moderate harmful impact on the openness of the Green Belt in both spatial and visual terms. The proposal would also conflict with the purpose of the Green Belt which seeks to safeguard the countryside from encroachment. These identified harms would be in addition to the inappropriateness of the scheme.
33. Therefore, I conclude that the proposal would cause moderate harm to the visual and spatial openness of the Green Belt. I consequently find conflict with LPS Policy PG 3, insofar as this policy seeks to keep land permanently open or largely undeveloped by safeguarding the countryside from encroachment. I also find conflict with the Framework, as openness is an essential characteristic of the Green Belt and one of the purposes is to safeguard the countryside from encroachment.

Character and appearance

34. With the exception of the existing fencing, the appeal site represents a vacant and undeveloped plot of green land which is devoid of built development. It currently provides a significant gap between the dwellings at The Oaks and Chestnut Tree, reinforcing the verdant character of the locality and the wider rural landscape. The

site also allows relatively long views of the undulating land and trees to the rear. Consequently, I find the appeal site currently makes a positive contribution to the intrinsic rural character and appearance of the wider area.

35. The development of 2no. dwellings on this plot, with associated domestic paraphernalia, would erode at least some of the existing open and rural character the appeal site currently provides, to the detriment of the visual qualities of the wider countryside landscape.
36. The proposed development would also result in the reduction of existing views over the appeal site into the wider countryside beyond. However, the harm caused by the reduction of these views is tempered by the view across the appeal site not being unique, with similar views into the wider countryside obtained from other locations along Dark Lane.
37. Nevertheless, I find that the appeal site currently makes a positive contribution to the rural landscape and the residential development of this green plot of land would result in limited harm to the character and appearance of this rural area. The proposal is therefore contrary to Policy PG 10 of the SADPD where it states that limited infilling will only be permitted where it does not involve the loss of undeveloped land that makes a positive contribution to the character of the area.

Other considerations

38. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.
39. The provision of two additional houses would make a positive contribution to the Council's housing land supply. Nevertheless, the social benefits arising from the provision of two additional bungalows would be limited.
40. Economic benefits would arise from the proposal, including contributions to the local economy during the construction phases of the development. These however would be short term benefits. Further economic benefits would arise from additional spending in the area by future occupants of the dwellings. Cumulatively, given the scale of development the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.
41. The proposal would provide an opportunity to increase the overall biodiversity of the site. However, given the scale of the development site, I attribute this matter limited weight in favour of the appeal.

Green Belt Balance

42. The appeal proposal constitutes inappropriate development in the Green Belt and results in moderate harm to openness. By virtue of paragraph 153 of the Framework this harm attracts substantial weight. The proposal would also result in limited harm to the character and appearance of the area.
43. The Framework makes it clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations for planning permission to be

granted. In this case, I find that although there are matters which weigh in favour of the appellant, the weight of these other considerations does not clearly outweigh the totality of the harm arising to the Green Belt and the character and appearance of the area in general.

44. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case.

Conclusion

45. The proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having regard to all other matters raised, the appeal is dismissed.

R Major

INSPECTOR