



Appeal Decision

Site visit made on 29 October 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2024

Appeal Ref: APP/N1025/W/24/3343961

99 Derby Road, Stanley, Derbyshire DE7 6EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Richard Sleight against the decision of Erewash Borough Council.
 - The application reference is ERE/1123/0021.
 - The development proposed is the erection of up to two dwellings (Approval of access sought now; matters of appearance, landscaping, layout and scale reserved).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with all matters other than access reserved for subsequent consideration. I have consequently treated the submitted drawings showing a proposed site layout as being for illustrative purposes only.
3. On 12 December 2024 the Government published a revised National Planning Policy Framework ("the Framework"), replacing the December 2023 version. While this included changes in respect of proposals affecting the Green Belt, the provisions most relevant for determining this appeal were not altered significantly. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2024 version.

Main Issues

4. The main issue is the effect of the proposal on the Green Belt as follows:
 - Whether or not the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposed development on the openness of the Green Belt; and
 - If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Inappropriate development in the Green Belt

5. The appeal site is a detached house and its generous garden, on the eastern side of Derby Road. It is at the south end of a ribbon of residential development comprising around 30 dwellings on both sides of Derby Road and Dale Road (though the houses on the west side of Derby Road begin some way north of the appeal property). There are wooded areas to the west (alongside the entrance track to Quarry Farm) and east (within a larger field or paddock). Quarry Farmhouse itself sits some way to the south of the appeal property across part of a field. The entire site is within the Green Belt.
6. The proposed development is the erection of two dwellings within what is currently the rear garden of No 99; this would involve the removal of an existing summerhouse building within the garden. Access would be taken from the south-western end of the appeal site's existing semi-circular driveway.
7. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, while Paragraph 154 indicates that, other than for listed exceptions, development in the Green Belt is inappropriate. Paragraph 154 e) allows for "limited infilling in villages", though neither "limited infilling" nor "villages" are defined further in the Framework.
8. Saved Policy GB2 of the 2005 (amended 2014) Erewash Local Plan ("the ELP") sets out criteria to be considered when assessing proposals for development in settlements washed over by the Green Belt. These are that the site is located within the built-up framework of a settlement; that the proposal represents either consolidation within the existing built up framework without intruding into the open countryside or the infilling of a small gap in an otherwise substantially built up frontage; that the development is of a scale and design which respects the character of the settlement and the surrounding countryside; and that it is appropriate to the Green Belt setting and does not have an adverse impact on the settlement. That policy is now of a considerable age and pre-dates the introduction of the Framework in 2012. However, it is not inconsistent with the Framework, and sets out how national Green Belt policy will be interpreted and applied locally.
9. The appeal site is outside the settlement boundary for Stanley identified in the development plan. However, this need not in itself preclude it from being considered within the village for the purposes of interpreting Paragraph 154 of the Framework; it is established in caselaw¹ that whether a site is "within a village", and whether a proposal constitutes "limited infilling", are matters which cannot be determined solely by reference to boundaries or policies in the development plan but are questions of planning judgement for the decision maker. That approach is also reflected in another local appeal decision ("the Yew Tree Farm appeal")² to which my attention was drawn.
10. Travelling south from the centre of Stanley, No 99 is the last house in the ribbon of development along Derby Road. This ribbon is separated from the "main" part of the settlement by open fields which extend somewhere in the region of 150 to 200 metres on both sides of Derby Road between the White

¹ For example, Wood v SSCLG and Gravesham BC [2015] EWCA Civ 195

² PINS Ref: APP/N1025/D/22/3306628

Hart pub and Stanley Brook. However, it is not unusual for a village to be in discrete parts rather than a single developed mass. There is a continuous, if narrow, footway (at least on one side of Derby Road) with streetlighting between the entrance to the appeal site and the rest of the village and, though it is not of course a determinative point, there is a "Welcome to Stanley Village" signpost on the west side of Derby Road near the site. There is an obvious visual and functional relationship between the ribbon along Derby Road and the main part of Stanley; taking all these factors together, it is reasonable to conclude that the appeal site is, for the purposes of this appeal, within the village.

11. The curtilage of Quarry Farmhouse may, as the appellant suggests, be as little as 20m from the southern boundary of the appeal site. However, the separation between the farmhouse itself and the existing house on the appeal site is considerably greater. Whether considered on the basis of the relationship shown on the submitted plans, or how things appear "on the ground", Quarry Farmhouse is functionally and visually quite separate from the built-up ribbon including No 99.
12. The two proposed dwellings would, notwithstanding the indicative nature of the submitted plans, be to the south and rear of No 99. Rather than filling a gap in an existing built-up frontage, they would be viewed from Derby Road as extending it into the space between the existing house and the wooded area alongside the track to Quarry Farm. Seen from further into the access lane to Quarry Farm, they would mean an advance of substantial built form into a space which, although used as a domestic garden, makes a positive contribution to the countryside character of the area.
13. I therefore find that the proposal would not be limited infilling in a village. None of the other exceptions provided for either in the development plan or by the Framework applies, and so by definition it would be inappropriate development in the Green Belt. It would conflict with national policy to protect the Green Belt, and with Saved Policy GB2 of the ELP.

Openness

14. Paragraph 142 of the Framework describes "the essential characteristics of Green Belts" as being "their openness and their permanence". The baseline for considering the effect on openness, which is the absence of development and which has both spatial and visual aspects, must be what currently exists at the site.
15. The rear garden of No 99 includes a summerhouse at the moment; this would be removed as part of the appeal scheme. While the layout and scale of the proposed development are reserved matters, it is reasonable to conclude that the two dwellings combined would be larger than the existing summerhouse they would replace. There would therefore be a loss of spatial openness. For the reasons I have set out in paragraph 11 above, there would also be a loss of visual openness. Given the size of the Green Belt, and the nature of the site (including that it is partly screened by mature vegetation) this would cause only moderate harm to the openness of the Green Belt.

Other Considerations

16. The appellant brought to my attention that permitted development rights in place for the appeal property mean that “one or more sizeable outbuildings” could be constructed in the same space proposed for the two new dwellings. This point may have been made simply to emphasise that the appeal site is a domestic garden rather than a paddock or agricultural field; there is no substantive evidence of an intention (or even a desire) on the appellant’s part to carry out such a scheme using permitted development rights.
17. It is also not clear that any such scheme would have a similar or greater impact on the Green Belt (including its openness) than the appeal scheme nor, in the event of this appeal being allowed, is there any mechanism which would prevent permitted development rights in respect of the existing dwelling being exercised. Accordingly, it is an argument which cannot carry significant weight in favour of the appeal scheme.
18. As well as the Yew Tree Farm appeal in Erewash already referred to above, the appellant drew my attention to two other appeal decisions – one in Tandridge³ and one in Cheshire East⁴ - which they considered relevant. In all three cases, Inspectors had found that the proposals represented limited infilling in villages, and thus were not inappropriate development in the Green Belt. While I do not know the full circumstances of each case, location and site layout plans were provided for all three. In each case, the plans show the appeal sites with a closer relationship with surrounding dwellings or their gardens than would be the case here. All therefore appear to be reasonably straightforward examples of “limited infilling”, but none seems directly analogous to the setting of the appeal site; these other appeal decisions do not carry significant weight in favour of this appeal scheme.
19. The proposal would provide additional housing, at a time when the Government is seeking to significantly boost the supply of homes. The scheme would provide two additional dwellings; given the scale of the proposal this is a matter which I consider should carry moderate weight in its favour.

Planning Balance and Conclusion

20. The proposal would be inappropriate development in the Green Belt, and would conflict with Saved Policy GB2 of the ELP which seeks to protect the Green Belt. It would also cause moderate harm to the openness of the Green Belt. These are matters to which I attach substantial weight, as required by Paragraph 153 of the Framework.
21. The appellant has stated that the Council cannot demonstrate a five-year supply of housing land. The matter was not addressed in the Council’s evidence; however, Paragraph 11 and Footnote 7 of the Framework are clear that the “tilted balance” in favour of “sustainable development” is not engaged if the application of policies in the Framework to protect areas of particular importance provides a clear reason for refusing the development proposed. These areas include land designated as Green Belt, and in this case, the harm to the Green Belt which I have identified provides a clear reason for refusing the proposal. The “tilted balance” is therefore not engaged.

³ PINS Ref: APP/M3645/A/13/2201516

⁴ PINS Ref: APP/R0660/W/21/3288419

22. The substantial weight to be given to the Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector