



Appeal Decision

Site visit made on 3 December 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/M0655/W/24/3345424

8 Birch Brook Road, Lymm, Warrington WA13 9RX

- 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 Roger Longman against the decision of Warrington Borough Council.
 - The application Ref is 2024/00057/FUL.
 - The development proposed is two new residential dwellings within the curtilage of an existing dwelling including associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published during the assessment of this appeal. Comments were requested from both parties on the changes from the previous Framework, insofar as it relates to this appeal. I have considered these comments in addition to the evidence initially provided in the appeal.
3. In following these comments, the appellant suggests that the appeal proposal now meets the exception in Paragraph 154 (g) of the Framework. This exception is concerned with limited infilling or the partial redevelopment of previously developed land. This is in addition to the exception cited under Paragraph 154 (e) which refers to limited infilling in villages. The proposal was initially assessed by the Council on this exception. As such, I have paid particular regard to both of these exceptions in my decision.

Main Issue

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the Framework and any development plan policies;
 - the effect on the openness of the Green Belt; and,
 - if inappropriate, whether any harm by reason of inappropriateness would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether it is inappropriate development in the Green Belt

Paragraph 154 (e) of the Framework

5. The appeal site is located in the Green Belt. Paragraph 154 of the Framework notes that the construction of new buildings in the Green Belt should be regarded as inappropriate. Several exceptions are listed in Paragraph 154. One of the exceptions included is the limited infilling in villages at Paragraph 154 (e).
6. In consideration of if the site is within the village, the Framework does not provide a definition of 'village'. The appellant suggests that following a previous judgment (*Wood v SSCLG*, 2015), the boundary of a village may be determined by undertaking an 'on the ground' assessment. This approach should be undertaken with regard to the overarching consideration of whether a site is within a village for the purposes of the Green Belt.
7. The appeal site forms part of the rear garden of 8 Birch Brook Road. This is an open area of garden space which is free from development, including the form of any noticeable hard boundary feature when viewed from Birch Brook Road and other vantage points such as that along the TransPennine Trail to the rear of the site. As such, due to the absence of a defined boundary feature, the site appears to form part of the open field which borders the site when viewed from these positions.
8. In addition, the site visibly appears to be a part of the adjacent open field, despite the small cluster of trees, the Birch Brook watercourse along the boundary and its location within the rear garden. This is because these trees, due to their modest number, and the watercourse do not immediately appear as boundary defining elements when viewed from the wider locality, but natural features of an agricultural field. The area of garden space has a manicured appearance when compared to the adjacent field. Nevertheless, when viewed from certain vantage points, this is not easily apparent. As such, the proposed dwellings would be read in context and appear to be sited in an area of land which appears to form a parcel of the adjacent field.
9. In contrast, the mix of hedges and trees to the rear of the appeal site at a close distance to the built-up part of the village form the boundary to Rushgreen. This change from open fields to the built form of Rushgreen is marked by a footpath which leads into the village and begins just beyond the appeal site. Rushgreen is a small settlement which hosts several shops and services. When travelling into Rushgreen along Birch Brook Road, there is a clear change in the environment from the open agricultural fields and into the built form of Rushgreen itself.
10. The footpath mentioned above and a Public Right of Way in the form of the TransPennine Trail are located behind the appeal site. Whilst Rushgreen is not defined as a centre within the LP, these footpaths provide access to a small number of shops and services, such as a primary school, restaurants and a large supermarket. These are located along a bus route but are also a walkable distance away from the appeal site. The use of a private vehicle would not be absolutely necessary for these journeys.
11. The appeal site has a functional relationship with the village. Therefore, in consideration of the specific characteristics of this case in terms of the spatial pattern of development as well as the appearance of the appeal site within the

context of the surrounding area, my conclusion is that the site is located in a village for the purposes of Paragraph 154 (e) of the Framework.

12. The Framework and the LP do not define 'limited infilling'. The Council has suggested that superseded Policy CC1 of the Warrington Local Plan Core Strategy 2014 provides a consideration of the definition of limited infill development. However, as this is a superseded policy, I have assessed the proposal using my planning judgement with regard to whether the development would constitute limited infilling.
13. The proposal consists of the provision of two residential properties. Therefore, owing to the small number of dwellings proposed, this is limited. However, as set out above, the appeal site directly borders an agricultural field and open land to one side. Therefore, this development would not appear to infill a gap within a built-up frontage due to the extensive open field to the east of the appeal site. It is not, therefore, infill development.

Paragraph 154 (g) of the Framework

14. I now turn to the exception noted in Paragraph 154 (g) of the Framework. To summarise, this exception notes that development in the Green Belt is inappropriate unless it is a proposal for limited infilling or the partial or complete redevelopment of previously developed land, which would not cause substantial harm to the openness of the Green Belt.
15. In following my previous findings in relation to the exception at Paragraph 154 (e) of the Framework, I do not consider that the site would constitute infilling in the Green Belt. The Framework provides a definition for previously developed land. This definition excludes areas of land such as residential gardens. The appellant suggests that the appeal site would meet the definition of previously developed land due to the existing built form within it, and its associated curtilage. Whilst the host dwelling and its driveway do sit within the centre of the appeal site, these elements occupy a small parcel of the site with much of the site, especially the rear garden area, free from development. I therefore consider the site to be a residential garden which does not constitute previously developed land.
16. The appellant also contends that there is evidence which illustrates that a railway spur formerly associated with Heatley Salt Works to the North has previously ran through the site. In my assessment of this evidence, the image provided is dated between 1930 to 1939. I am cognisant of the TransPennine Trail to the rear of the site, which follows a decommissioned railway line which follows an east to west direction. In addition, owing to its size and quality of the image provided, I cannot determine for certain that this spur to Heatley Salt Works did exist and ran through the appeal site. I therefore attribute limited weight to this matter. Overall, the two dwellings would be sited in locations which are absent of development and are not on previously developed land.
17. The appellant has provided reference to an appeal decision and a High Court decision. The inclusion of these decisions seeks to reason the differences between substantial, slight and moderate harm to the Green Belt and to provide an interpretation of residential gardens within the Green Belt and the relief which they provide between the Green Belt and the built form. However, each planning decision is subject to its own site characteristics, constraints and decision. The decisions cited are also not of a development which is similar in either type or size

to that proposed under this appeal, or in locations close to the appeal site. Therefore, I ascribe limited weight to these decisions in my reasoning.

18. Therefore, the assimilation of the field and the garden area create a break between the surrounding areas of high density-built form and the surrounding Green Belt. Furthermore, each planning decision is subject to its own site characteristics, constraints and decision. The decisions cited are also not of a development which is similar in either type or size to that proposed under this appeal, or in locations close to the appeal site. Therefore, I ascribe limited weight to these decisions in my reasoning.

Paragraph 155 of the Framework

19. Paragraph 155 also notes that the development of homes in the Green Belt should not be regarded as inappropriate where the development meets all of the criteria set out under four bullet points. In this case, housing is proposed and it is common ground that the Council has a five-year housing land supply and therefore, as set out at Footnote 56 of the Framework, there is not a demonstrable unmet need for the type of development proposed. This criteria is not therefore met and the appeal site is not on grey belt land. I have not assessed the requirements of Paragraph 155 of the Framework further.
20. In consideration of these matters, including the spatial and visual circumstances of the appeal site, I find that the proposal would be located in a village for the purposes of paragraph 154 (e) when undertaking an 'on the ground' assessment. However, I find that the site would not be limited infill, nor would the proposal be located on previously developed land and nor would it not constitute Grey Belt land. As such, the proposal would be inappropriate development in the Green Belt.

Openness

21. Openness is an essential characteristic of the Green Belt which can have spatial as well as visual aspects. In purely spatial terms, the two dwellings would reduce the openness of the Green Belt due to the advancement of built form where it would not represent an infill development or be located on previously developed land.
22. In my assessment of the visual aspect of openness, when viewed from the wider vicinity, the absence of a strong boundary treatment gives the appearance that the appeal site is part of the adjacent field. The development would introduce residential buildings and domestic paraphernalia such as additional vehicles into a location where there were previously none. I am cognisant that as the current use of the land is that of a residential garden, the introduction of additional vehicles and domestic paraphernalia in this space could occur. However, this paraphernalia would be clearly associated with 8 Birch Brook Road.
23. Therefore, the introduction of domestic paraphernalia and new buildings would add to the harm arising from inappropriate development in the Green Belt. This would reduce the openness of the Green Belt. In wider consideration as to whether the openness of the Green Belt would be preserved, it is the visual and spatial implications of the buildings which would fail to preserve the openness of the Green Belt.

Other considerations

24. The proposal would be inappropriate development in the Green Belt. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations as set out at Paragraph 153 of the Framework and Policy GB1 of the Warrington Local Plan 2023 (LP).
25. The scheme would provide two additional dwellings to the supply of housing which have been designed to be environmentally sensitive to reduce energy consumption. This is a positive, but limited benefit to the appeal given the small number of dwellings. No objections have been raised with regard to contaminated land, highways or flood risk. However, these are factors that must be met by new development and very limited benefit. These limited other considerations would not clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm that I have identified. Consequently, the very special circumstances necessary to justify the proposed development do not exist.

Conclusion

26. The proposal would conflict with the development plan. Material considerations, including the Framework, do not indicate that the decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

J Smith

INSPECTOR