



Appeal Decision

Site visit made on 20 February 2025

by **John Felgate BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Appeal Ref: APP/R0660/W/24/3355830

Land at Peover Lane, Chelford, Cheshire SK11 9AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Messrs J & T Dean-Smith against Cheshire East Council.
 - The application Ref is 23/1921M.
 - The development proposed is described as: *"Construction of two new dwellings, and the gifting of the land outlined in blue to the community, to enable the reestablishment of the former cricket facilities"*.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary matters

2. On the application form, the proposed development is described as set out above. However, the plans submitted with the application also show a proposed new car park, which would be within the red-edged application site boundary. The car park is not referred to in the formal description, and there is therefore a significant discrepancy between the application documents, giving rise to uncertainty as to whether the car park would be covered by any permission granted. Whilst the car park was also referred to in the Design and Access Statement, this would not necessarily have been seen by neighbours or other interested parties; and anyway this does not definitively resolve the ambiguity. In these circumstances, any decision based on the inclusion of the car park could potentially result in unfairness. I have therefore based my decision on the proposal as described in the application form. However, I have had regard to the proposed car park as an indication of a possible future, separate proposal for that part of the land.
3. The land which is proposed to be given for the re-establishment of the former cricket pitch is excluded from the application site, but is shown on the submitted plans, edged in blue. An executed legal undertaking has been entered into with regard to this part of the proposal.
4. During the course of the application, an alternative layout plan was submitted showing a football pitch in place of the proposed cricket facility. The covering email for that plan, dated 27 September 2023, states that the appellants wished to discuss this as an option. However, no discussion or other acknowledgement appears to have followed from this. I have treated this alternative plan as supporting information, but not as part of the formal proposal which is before me for decision.

5. At the appeal stage, the appellants have submitted a revised layout plan, drawing No. 1526-100 Rev. D, which incorporates minor amendments to the proposed access arrangements. The Council has since confirmed that it does not object to this revised plan being accepted for consideration. I see no reason to disagree, and have considered the appeal accordingly.
6. In December 2024, a revised version of the National Planning Policy Framework (the NPPF) was published. The provisions most relevant to the present appeal are substantively unchanged, and I have taken these into account accordingly.

Main issues

7. The Council states that, had it made a formal decision, permission would have been refused, on grounds relating to Green Belt policy. In the light of this, and all the other submissions before me, I consider that the main issues in the appeal are:
 - whether the proposal would represent ‘inappropriate development’ in terms of the relevant Green Belt policies;
 - whether there would be any other adverse effects on the Green Belt; and
 - the extent to which the scheme would result in any benefits, and the weight to be attached to these.
8. In the light of the above, and in accordance with the relevant policies, I will then consider whether any harm that I have identified would be clearly outweighed by the scheme’s benefits, so as to amount to the very special circumstances needed to justify such development in the Green Belt.

Reasons for decision

Policy background

9. The appeal site lies within an area of Green Belt, as shown on the District Policies Map. Within that area, Policy PG3 of the Cheshire East Local Plan Strategy¹ (the CELPS) states that planning permission will not be granted for inappropriate development, except in very special circumstances. ‘Inappropriate development’ is defined as including all new buildings, except those that fall within various exceptions; these include limited infilling in villages. The same policy also sets out that the aim of Green Belt policy is to keep the land permanently open, and that the main purposes include safeguarding the countryside from encroachment.
10. In addition, Policy PG10 of the Site Allocations and Development Policies² (the SADP) requires, amongst other things, that infilling should be limited to relatively small sites, within defined village infill boundaries. In the present case, the appeal site is not located within any such infill boundary.
11. In the National Planning Policy Framework (the NPPF), paragraph 153 states that substantial weight must be given to any harm to Green Belts, and that inappropriate development is to be treated as harmful by definition. The same paragraph also makes it clear that ‘very special circumstances’ will only exist where the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.

¹ The Cheshire East Local Plan Strategy, adopted in July 2017

² The Site Allocations and Development Policies Document, adopted December 2022

'Inappropriateness'

12. On my visit, I saw on that the appeal site is located about 800m outside the Chelford village settlement boundary, in an area of sporadic development around the roundabout junction of the A535, A537 and B5359 routes. Immediately to the east of the site there is a small cluster of three or four dwellings and a shop. Beyond the roundabout, there is a petrol station and an intermittent row of commercial premises extending along one side of Alderley Road, interspersed with occasional dwellings. There is also a somewhat looser grouping of mainly residential properties to the south side of Chelford Road, set mostly away from the road, in what appear to be former farm buildings. To the west of the appeal site is a row of five large detached properties, set within extensive grounds. Some 300m to the south, in a somewhat more isolated position, is the Church of St John.
13. I have given careful consideration to the evidence presented regarding whether this collection of disparate groups of properties and land uses, interspersed with pockets of open land, can reasonably be considered as a village. However, the basis for that suggestion is relatively slight. Historically the church and shop were probably at the heart of the original scattered settlement, but to my mind it is more relevant to consider the development pattern as it is now. The present-day village of Chelford has clearly grown quite separately, as a result of the coming of the railway, leaving the various small, sporadic groups of buildings to the south detached from it. To my mind, those groups lack any evident sense of focus or even any clear physical or visual relationship to each other; consequently, they have no coherent form or identity. Furthermore, even when looked at as a whole, they lack any real critical mass. In none of these respects does the existing development in the vicinity of the appeal site seem to me to bear much resemblance to what would normally be described as a village.
14. Turning to the question of infilling, the appeal site itself comprises the front part of what was once a local cricket ground, with trees and a hedgerow along its front boundary, and rough grassland behind. Travelling along Peover Lane from east to west, the development close to the roundabout terminates at the property named Newcroft. Then there is the appeal site, with its undeveloped frontage of around 100m. This length is approximately double that of the built frontage to the east. Continuing westwards, the ribbon of houses beyond the appeal site, beginning with Willow Glade, do not become visible until just before the end of this open frontage, so that there is a lengthy section of road where little development is seen at all. Furthermore, due to the spacing between them, this latter group appears as a series of isolated buildings separated by greenery, rather than as a continuous built-up frontage. There seems no reason why this perception would change significantly, if and when an additional dwelling were built at Willow Glade. On the opposite side of the road, for the most part, there is nothing but arable farmland. Seen in this context, the appeal site appears to my mind as part of the surrounding countryside, unconnected with the development on either side. Consequently, in my view, any development on the site would appear not as the infilling of a gap, but rather as a westward extension of the existing development to the east.
15. I am aware that the NPPF does not endorse the use of infill boundaries such as those used in SADP Policy PG10. But in the present case, due to its size and location, it seems to me that the appeal site could not properly be considered an infill site, irrespective of Policy PG10. I also appreciate that none of the relevant policies defines any specific size limits for infill sites. But nevertheless, a

judgement has to be made on a case by case basis, and that is the approach that I have adopted in this case, based on my own observations of the site and its surroundings, and on the matters set out above.

16. I note the Council's apparent willingness to concede that the 'facts on the ground' may justify treating the appeal site as being within a village, even though this would appear to contradict their decision on a previous application. However, even if I were to adopt the same position on that particular point, that would not change the outcome, because, as already explained, I find that the site does not have the characteristics necessary to be counted as infilling. In any event, for the reasons already stated, my own view is that the development in the vicinity of the site does not amount to a village.
17. Finally, I also note the appellants' comments regarding the significance of the speed limit sign in Peover Lane. However, the positioning of the sign seems likely to have been chosen for reasons of highway safety rather than with regard to planning considerations. And in any event, as the area subject to the lower limit of 40mph excludes about half the site frontage, and the houses beyond, this does not seem to me to support the case being argued with regard to infilling.
18. In the light of the above matters, I turn briefly to the various other exceptions to Green Belt policy listed within Policy PG3 and NPPF paragraph 154. The car park shown on the submitted plans would be related to outdoor sport and recreation. However, for the reasons already explained, I am unable to treat the car park as part of the present appeal proposal. And in any event, the proposed new dwellings would clearly fall outside the scope of that exception. There is no suggestion that the development would fall within any of the other relevant provisions in either policy.
19. In the light of all the matters discussed above, I conclude that the appeal site should not be regarded as being within a village, and nor can it realistically be viewed as an infill site. The proposed development would therefore not fit comfortably within any of the relevant provisions for village infill in either of Policies PG3 or PG10 of the CELPS, or in the NPPF. None of the other exceptions to those policies are applicable. It follows that the scheme would constitute inappropriate development in the Green Belt, contrary to the policies identified. In accordance with NPPF paragraph 153, such development is to be regarded as harmful by definition.

Other effects on the Green Belt

20. The appeal site is currently undeveloped grassland, which is open in character. The development now proposed would involve two substantial new buildings, with driveways, garages, hardstandings and internal boundary enclosures. These new features would be visible from the public realm in Peover Road. The character of the site would change significantly, from countryside to urban or suburban.
21. As a result, the openness of this part of the Green Belt would therefore be entirely lost, and the countryside would suffer an encroachment of built development. In these respects, the scheme would conflict with the aims and purposes of Green Belt policy as set out in Policy PG3 and the corresponding provisions of the NPPF.
22. The Council raises no objection to the design of the proposed houses, and I see no reason to disagree. I also appreciate that the scheme would provide ample

space for landscaping. But nevertheless, the loss of openness and the encroachment on the countryside would constitute additional harmful impacts on the Green Belt which, in accordance with NPPF paragraph 153, carry further weight against the proposal.

Benefits of the scheme

23. The unilateral undertaking which has been entered into, as a Section 106 planning obligation, binds the owner of the land not to implement the proposed development until the freehold of the remainder of the former cricket field has been transferred to one of four named local cricket clubs, or to an alternative body approved by the England and Wales Cricket Board. I have no doubt that the intention behind this undertaking is genuine, and if the undertaking were likely to be effective in bringing about the return of the land to active use for sports or recreation, I would agree that this would be a significant benefit, to be weighed against the harm to the Green Belt.
24. However, the undertaking in its present form seems to me to suffer from a number of significant shortcomings. Firstly, there is no requirement within the undertaking for the use of the land for playing cricket to actually take place, nor is there any commitment to any timescale for this. Secondly, there is no provision as to where the funding for the necessary works would come from. Thirdly, there is no commitment or obligation as to the on-going management or use of the land, beyond the initial change of ownership. Together, the lack of certainty on these matters seems to me to cast significant doubt on whether the undertaking would be capable of achieving its purpose.
25. Furthermore, in considering whether the undertaking would be likely to succeed, I cannot help but be conscious of the scale of the obstacles. On my visit, I saw that the condition of the land has evidently deteriorated significantly since the time when cricket was last played, some five or six years ago. The entire playing area is now covered in rough, tussocky, meadow-like grass, with many patches of developing scrub and tree seedlings. The former wicket square is indistinguishable from the outfield. The pavilion and scoreboard seem in an advanced state of disrepair. It is evident therefore that the extent of the works that would be needed would be extensive, and that considerable financial and other resources would need to be invested. There is no evidence that grant funding would be forthcoming; indeed this prospect appears somewhat remote, since the space remaining after the development of the two houses would be unlikely to meet recognised standards. Felling part of the boundary woodland to make more space would be environmentally damaging and would increase the costs, and thus does not seem a realistic option. None of the local clubs that has been approached appears to have shown anything more than tentative interest. Approaches are also said to have been made to the Cheshire Cricket Board and the Chelford Parish Council, without success. There is no evidence that any other cricketing or community organisation is willing to take on the responsibility; indeed the appellants confirm that no other approaches have been received from any party. The Council's Playing Pitch Strategy is said to identify a need, but that counts for little without a willing operator. Sport England's position appears lukewarm at best. In short, there seem few grounds if any, for optimism that the obstacles are surmountable.

26. I appreciate that the planning obligation would place the owners of the land in a position where there would be a strong financial incentive to find solutions, so as to enable the construction of the two new houses to proceed. But in view of the shortcomings that I have identified, that incentive would not necessarily extend any further than securing the initial transfer of the land. After that, the new owner would not be legally bound by anything in the undertaking as it stands. Nothing would appear to prevent the land from remaining unused, or from falling back into disuse. Nor would anything prevent a future change of ownership, possibly to a non-sporting body or private owner with no particular interest in restoring the site to cricket.
27. Overall therefore, the value of the undertaking is substantially undermined by the lack of certainty in respect of any of these important matters relating to the funding, implementation and the on-going management of any future cricket facility. In view of these shortcomings, the prospects of the undertaking achieving its purpose seem slim. As such, it carries little weight.
28. Nevertheless, the development would have some minor economic and social benefits. It would add to the local housing stock. It would provide local employment during construction. And the occupants of the new dwellings would be likely to make use of local businesses and services, and thus help to support the rural economy. I have taken account of these benefits accordingly.

Other matters

29. The larger site, of which the appeal site forms part, is identified on the Proposals Map as a protected open space, and in the Chelford Neighbourhood Plan (the CNP) as a local green space. As such, it is protected by SADP Policy REC1 and CNP Policy GI1. In addition, outdoor sports facilities and green infrastructure are further protected by CELPS Policies SC2 and SE6 respectively. The appeal proposal would result in the loss of part of the larger site, and thus would reduce the amount of designated green space and recreational land. The site is in private ownership and has been out of use for some time, and as a result it is not clear what role it will be able to play in the future. But nevertheless, in the absence of any clear proposal as to the adequacy of the new playing area that could be provided, or the means of achieving it, there seems to me to be a clear conflict with these open space and recreation policies. Although the point is not relied on by the Council as part of its reason for refusal, the policy conflict in this regard is noted in the authority's appeal statement. In these circumstances, whilst the matter is not determinative on its own, I consider that the lack of accordance with Policies REC1, GI1, SC2 and SE6 adds some further weight against the proposed scheme.
30. The proposed development would be visible from the nearest adjoining properties. However, given the spacing between the dwellings, no property would suffer any unacceptable loss of outlook or other significant impact on living conditions.
31. The development would have a minor impact on the existing trees and hedge along the site frontage. However, the majority would be retained, and on balance the loss would not be unacceptable.
32. There is nothing to suggest that adequate and environmentally acceptable foul and surface water drainage for the proposed new dwellings could not be achieved, subject to further details. These could be secured by condition.

33. The arrangements for access to the septic tanks or other sewage treatment facilities of any neighbouring properties are a private matter rather than a planning consideration. Any existing rights in this regard would be unaffected.

Planning balance and conclusion

34. For the reasons already set out above, the proposed development would not represent infilling within a village. The scheme would therefore constitute inappropriate development harmful to the Green Belt, conflicting with the Green Belt Policy PG3 of the CELPS and the infilling Policy PG10 of the SADP. It would also cause additional harm to the Green Belt due to the loss of openness, and by encroachment onto the countryside. Each of these harms to the Green Belt carries substantial weight. In addition the scheme conflicts with SADP Policy REC1, CNP Policy GI1, and CELPS Policies SC2 and SE6 with regard to its impact on recreational land, sports facilities, open space and green infrastructure respectively. No policies have been identified which support the development. The scheme is therefore in clear conflict with the development plan as a whole.
35. The scheme would have some economic and social benefits but these would be minor. The undertaking to transfer the remainder of the land to a cricket club is deficient in several ways, and thus cannot be relied on to produce any clear benefits at all. The scheme's benefits therefore do not clearly outweigh the harm that would be caused to the Green Belt, together with the additional harm that would arise through the multiple conflicts with the other policies that I have identified. It follows that the very special circumstances needed to justify the development have not been demonstrated.
36. I have taken account of all the other matters raised, but in the light of the above I conclude that the proposal fails to accord with the development plan, and that this conflict is not outweighed by any other considerations. The appeal must therefore be dismissed.

J Felgate

INSPECTOR