
Appeal Decision

Site visit made on 18 August 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2025

Appeal Ref: APP/G1630/W/25/3365998

Part of Parcel 8072, Badgeworth Lane, Badgeworth, Cheltenham, Gloucestershire

- 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 J Staniland against the decision of Tewkesbury Borough Council.
 - The application Ref is 23/00404/FUL.
 - The development proposed is the construction of new highway access, vehicle track and hard standing along with other associated operational development for agricultural use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site does not have a postal address but has the grid reference of Easting (x) 390846 and Northing (y) 218790.
3. During the application, the width of the proposed track was reduced from 10m to 4m, accordingly the narrower width has been considered in this decision.
4. The appellant's submission included an Environmental Impact Assessment (EIA), a Green Belt Analysis (GBA), and a Landscape and Visual Appraisal (LVA), as a direct response to the reasons for refusal. They do not physically alter the proposed development, and all parties have had the opportunity to comment on them. As such they have been considered in this decision.
5. The main parties have both referred to the Tewkesbury Borough Local Plan (LP) Policy LAN2 'Landscape Character'. However, the submitted wording was for 'Landscape Protection Zones'. It is assumed this was submitted in error, as such the online version of LP Policy LAN2 has been reviewed.

Background and Main Issues

6. The Council, on review of the submitted EIA, is content that the proposal would not result in the loss, deterioration, or harm to features, habitats or species of importance to biodiversity and so no longer seek to contest the third reason for refusal on the decision notice. With nothing before me to conclude otherwise I consider this issue resolved.
7. Therefore, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;

- the effect the proposal has upon the openness of the Green Belt;
- the effect of the proposal on a) the character and appearance of the landscape, b) highway safety; and
- if the development is inappropriate whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt and openness

8. The appeal site crosses a series of fields, crosses a brook and public right of way (PRoW), and incorporates some existing agricultural structures. It is located in the open countryside, surrounded by fields and would join Badgeworth Lane. On the opposite side of the lane is a large complex of farm buildings. There is also an existing access from Church Lane to the agricultural structures within the appeal site.
9. It was observed during the site visit that there is already an existing access from Badgeworth Lane into one of the fields which the appeal site would bisect, an obvious vehicle track along the edge of that field, and a forded crossing point for the brook, all within the ownership of the appellant.
10. The proposal would create a new access onto Badgeworth Lane, and an area of hardstanding around the existing agricultural structures. These 2 elements would then be linked by a track which would bisect the fields in an L shape and require a new culverted crossing over the brook.
11. Paragraph 154 of the Framework provides for a series of development exceptions which would not be inappropriate in the Green Belt. The main parties agree that the proposal would constitute engineering operations, which within Paragraph 154 h) ii. could be considered acceptable as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including that land within the Green Belt. Policy SD5 of the Gloucester, Cheltenham, and Tewkesbury Joint Core Strategy (JCS) and LP Policy GRB4 align with the Framework on this matter.
12. Although the proposal would constitute a considerable amount of development, it is appreciated that much of it would be at or just above ground level. However, the proposal track would be visually obvious from the PRoW. And the proposed access and brook crossing would be relatively large, engineered structures which would be visible, from the road and / or PROW. The bisecting nature of the proposal would also create multiple smaller fields. The openness of the area is expressed by larger fields, and the creation of multiple small fields would have an enclosing effect.
13. The proposed hardstanding would be around existing agricultural structures and would visually regularise an area already in use, so would not constitute encroaching development. However, this would not overcome the harm the rest of the proposal would have.
14. Therefore, when considering the proposal as a whole, it would introduce a large amount of development in an area which is currently undeveloped. In conjunction

with its form and location, it would visually and spatially intrude into the openness of the appeal site and its surroundings, and therefore the Green Belt.

15. Paragraph 143 of the Framework sets out the 5 purposes of Green Belt, one of which is to assist in safeguarding the countryside from encroachment. It is recognised that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open, and the proposal is not for development which would necessarily be considered urban. Nevertheless, as the proposed track, access, and brook crossing would physically encroach on the fields the proposal seeks to cross, and would be visually obvious, it cannot be considered these elements of the proposal would safeguard the countryside.
16. The proposal as a whole would fail to comply with Paragraph 154 of the Framework.
17. The appellant's GBA notes that the appeal site performs a function in relation to the safeguarding of the countryside from encroachment, but that this function is weak. However, weak does not mean the appeal site does not serve a purpose within the Green Belt.
18. The appellant has introduced the probability that the appeal site would constitute grey belt, so would need to be tested under Paragraph 155 of the Framework. This paragraph sets out 4 criteria all of which need to be met for development not to be considered inappropriate. Notwithstanding whether the appeal site would constitute grey belt, it has been found that the proposal would fundamentally undermine the Green Belt purpose to prevent encroachment, and it has not been shown that the proposal meets a demonstrable unmet need beyond convenience for the appellant. The proposal would therefore fail to meet all the criteria of Paragraph 155.
19. The appellant states the proposal is necessary to provide access to the grain store approved via prior approval¹ in 2023. However, considerations through the prior approval process are limited and the grain store does not form part of the proposal before me. Even were the grain store considered, it has not been found that the proposed hardstanding around it would be inappropriate. However, it has not been convincingly justified that the proposal is the only way this could be achieved.
20. The case law *Lee Valley RPA v Epping Forest DC* is noted. However, it related to non-inappropriate development and whether its effect on openness needed to be further considered. That is not the case here.
21. Accordingly, the proposal as a whole would constitute inappropriate development, as described in Paragraphs 154 and 155 of the Framework. As set out in Paragraph 153 inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, a matter returned to below.

Character and appearance

22. The appeal site is situated within a landscape of medium and large fields interspersed with pockets of development predominantly related to agricultural purposes. This includes the agricultural structures related to the proposed hard standing, the farm complex on the opposite side of Badgeworth Lane, and a small number of residential dwellings scattered along the road.

¹ 23/00179/AGR

23. The proposal would link two pockets of development, that on Badgeworth Lane, and the existing agricultural structures, by cutting across open space. In effect dividing a series of fields into two and crossing various linear landscape features including existing hedgerows and the brook. It would be visually obvious from the PRoW which it would also cut across. Due to its length, it would be an unusual feature at odds to the shorter direct access tracks used by other agricultural developments in the area. The central field location along with the engineered features of the brook crossing and new road access would considerably change the character and appearance of the fields the appeal site is part of. Thus, creating a patchwork of smaller fields which would be at odds to the field sizes indicative of the wider landscape.
24. The LVA proposes mitigation along the site boundaries in the form of native tree and hedgerow planting. This would further draw emphasis to the length of the proposed track and show the clear division of the fields the track would cross.
25. The proposal would, therefore, cause moderate harm to the character and appearance of the landscape, due to the limited locations the proposal would be seen from. The proposal fails to comply with JCS Policy SD6 and LP Policy LAN2 as far as they seek new development to integrate into their existing landscape setting and protect landscape character for its own intrinsic beauty.

Highway safety

26. The proposed new access would require visibility splays to be maintained along Badgeworth Lane. When considering the original visibility splays, the Local Highway Authority (LHA) was concerned that they were not properly calculated so it was “not possible to determine if suitable emerging visibility splays can be provided within applicant or highway land clear of third party boundaries for adequate safe sight stopping distances of highway users and emerging site vehicles.”²
27. The Appellant has submitted a technical note which clarifies these would need to be 2.4m x 94.3m to the south-east and 2.4m x 88.7m to the north-west. These are shorter than those originally proposed within the application. However, the calculations to reach these figures have been undertaken by a qualified person and there is nothing before me to conclude that these are not accurate. It has also been shown that the proposed visibility splays could be achievable within the adopted highway and land controlled by the applicant. Although no section 142 license has been issued, on the balance of probabilities it is likely it would be, as the concerns of the LHA have been dealt with. The license could be secured by a negatively worded condition.
28. The Council has drawn my attention to an appeal (ref APP/G1630/C/13/2197985) and the case law referred to within it. As in this instance the LHA has inferred that if the visibility splays were limited to appellant owned land and highway land, they would be acceptable. Nevertheless, it is not found that the cases are so similar to warrant comparison.
29. By securing appropriate visibility splays the proposal would ensure acceptable levels of intervisibility between road users and those using the proposed access. Accordingly, with appropriate conditions the proposal could not harm highway

² Response dated 15 November 2023

safety and so comply with JCS Policy INF1 insofar as it seeks new development to provide safe connections to the transport network.

Other considerations

30. It is recognised that the appellant requires a grain barn to assist with farm operations, so they consider the proposal to comply with LP Policy AGR1, as it would support new agricultural development. However, the appellant also chose to seek prior approval for the grain barn without first ensuring appropriate access was available. Nevertheless, as set out in the main issue, the need for the proposal is not substantively evidenced, would not relate to the existing accesses and crossings, and would harm character and appearance. As such the proposal would fail to comply with LP Policy AGR1. Nevertheless, even were the proposal considered compliant with this policy, it would equate to a lack of harm and therefore a neutral factor which could not weigh for or against the proposal.
31. This would also be the case for the identified lack of harm in relation to biodiversity, living conditions, accessibility of the PRow, drainage, flood risk, and, as set out in the main issues, highway safety.

Green Belt Balance

32. The other considerations do not clearly outweigh the totality of harm to the Green Belt, by reason of inappropriateness and harm to openness, and the harm identified relating to character and appearance. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would not therefore comply with the Framework and would conflict with JCS Policies SD5 and SD6, and LP Policies GRB4 and LAN2.

Conclusion

33. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR