



Appeal Decision

Site visit made on 23 September 2025

by **L Wilson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 October 2025

Appeal Ref: APP/M1005/W/25/3369940

Windmill View Nurseries, Spanker Lane, Nether Heage, Belper, Derbyshire DE56 2AT

- 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 Ross Richardson, Forte Developments & Investments Limited against the decision of Amber Valley Borough Council.
 - The application Ref is AVA/2024/0302.
 - The development proposed was originally described as change of use from grazing land to recreation/leisure.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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 relevant development plan policies, including an assessment of the effect of the proposal on the openness of the Green Belt.
 - 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 required to justify the proposal.

Reasons

Whether inappropriate development

3. The proposed development seeks to erect 5 glamping pods with associated works. Policy EN2 of the Amber Valley Borough Local Plan (2006) (LP) states that within the Green Belt, planning permission will only be granted for appropriate development and sets out those developments. The developments listed in the policy are more restrictive than the approach set out in the Framework. Noting paragraph 232 of the Framework, I therefore give Framework paragraphs 154 and 155 substantial weight in my assessment of the appeal.

154 b)

4. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate unless one of the listed exceptions applies. Paragraph 154 b) allows for the provision of appropriate facilities (in connection with the existing use of land

or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

5. The appellant states that the meaning of paragraph 154 b) is primarily intended to cover buildings and facilities connected with outdoor sport or recreation. They assert it could involve visitor accommodation where the primary activity was sport and recreation, such as a scout or guide camp.
6. Users of the glamping pods may look to have a break that consists of recreation in the countryside, for example walking. Furthermore, walking is actively promoted in the area. However, in this case, there is no certainty that would be the primary activity of users of the glamping pods. The glamping pods would be permanent structures with amenities. There is no robust evidence to demonstrate that the development would be inherently connected with outdoor recreation or sport. To meet this exception openness of the Green Belt and its purposes need to be considered which are addressed below.

154 e)

7. A further exception is 154 e) limited infilling in villages. Nether Heage is identified as a village in the development plan.
8. The site is adjacent to the Nether Heage recreation ground which provides a break in development along Spanker Lane. Buildings within the main built-up area of Nether Heage are closely linked together. In contrast, the appeal site is significantly set back from Spanker Lane. The recreation ground boundary hedge provides a clear separation between the built-up area of the village and the countryside beyond. Furthermore, whilst there is development nearby, the site does not clearly form a gap between built development and built structures.
9. Consequently, the development would not represent limited infilling in a village. In coming to this view, I have considered the highlighted appeal decisions¹. However, the context of the appeal site and their relationship with the village cannot be directly compared to those cases.

154 h)

10. Paragraph 154 h) allows for other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it, and provides a list of forms of development. I recognise that the list in criterion v) of paragraph 154 h) is not a closed list². In order to meet this exception openness and the Green Belt purposes need to be considered which are addressed below.

155

11. Paragraph 155 of the Framework provides for development on grey belt land in certain circumstances. Grey belt land is defined in the Framework as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies

¹ Including APP/F2360/W/22/3306867, APP/ B5480/W/18/3200843 and APP/P3420/W/19/3229732

² RB of Kingston upon Thames v SSLUHC [2023] EWHC 2055 (Admin)

relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

12. Purpose (a) is to check the unrestricted sprawl of large built-up areas; (b) is to prevent neighbouring towns merging into one another; and (d) is to preserve the setting and special character of historic towns. The site does not make a strong contribution to purpose (a) as it is located on the edge of Nether Heage which is a village and there is development nearby. In addition, the site does not make a strong contribution to purpose (b) as it is not a gap between towns. Furthermore, the site does not form part of the setting and special character of an historic town so does not contribute to purpose (d). Consequently, the appeal site does not strongly contribute to the above purposes and therefore, based on the evidence presented, comprises grey belt for the purposes of this appeal, and the other criteria of paragraph 155 apply.
13. Due to the location of the appeal site (to the edge of Nether Heage), nearby development, as well as the scale and nature of the proposed development, the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Thus, the proposal satisfies criterion a).
14. Criterion b) requires that there is a demonstrable unmet need for the type of development proposed. The wider Windmill Nurseries site contains Juglans Barn which provides self-catering accommodation with a good occupancy rate. The emerging local plan supports tourism development and identifies that demand for touring caravan and camping sites within Amber Valley is high. However, that evidence does not detail the demand for glamping pods or demonstrate that there is an unmet need.
15. The Council's website acknowledges the importance of the visitor economy to Amber Valley. My attention has also been drawn to the D2N2 Visitor Accommodation Strategy which identified Amber Valley had only 1 glamping site. Nevertheless, the Strategy is significantly out of date and given the growth of glamping over recent years it is likely that this figure is notably different.
16. For these reasons, the appellant has failed to provide substantive and up-to-date evidence to demonstrate that there is an unmet need for the type of development proposed. Thus, the proposal does not satisfy criterion b) and there is no need for me to further consider the criteria c) and d) listed in paragraph 155.
17. The appellant has drawn my attention to grey belt Appeal decisions³. Taking into account the criteria listed in paragraph 155, the nature of the developments, as well as their locations, those cases cannot be directly compared to the proposal before me.

Openness

18. It is necessary under both 154 b) and 154 h) to consider openness. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

³ Including APP/V4630/W/24/3347424, APP/T3725/W/24/3347315, APP/Q4625/W/24/3347316, APP/H2265/W/24/3346228, APP/R3650/W/24/3352222 and APP/M3645/W/24/3347328

19. The appeal site comprises open, agricultural land. The boundary hedge between the appeal site and the recreation ground would largely screen the development from the public realm. Nonetheless, given the hedge type, and as it is less dense in parts, as well as the height of the glamping pods, it is likely that glimpsed views of the development would be possible from public vantage points. Thus, the development would have a visual impact on the openness of the Green Belt. The proposed development (which includes five glamping pods, a parking area and paths) would also have a spatial impact on the openness of the Green Belt because it would result in an erosion of space where there are currently no buildings.
20. For these reasons, and considering the highlighted legal judgements⁴, the scale of the development and locational context of the site, the proposal would not preserve the openness of the Green Belt and consequently would not meet exceptions 154 b) and 154 h).

Conclusion on whether inappropriate development

21. For the reasons given above, and taking into account the Planning Practice Guidance, the proposal would not fall under any of the exceptions listed and would be inappropriate development in the Green Belt, having regard to chapter 13 of the Framework and Policy EN2 of the LP. As set out above, given that Policy EN2 is not fully consistent with the Framework, it has limited weight in the decision-making process.
22. The reason for refusal refers to Policy LS3 and ER12 of the LP and chapters 6, 12 and 15 of the Framework. These do not specifically relate to development in the Green Belt, and it is not clear why these are included within the reason for refusal. Thus, based on the evidence provided, I am satisfied that there would be no conflict with these policies or these parts of the Framework.

Other considerations

23. The appellant has highlighted other considerations and in relation to this matter legal judgements⁵. The proposed development would support local services and facilities in Nether Heage and Heage through economic activity. The development could also help to sustain heritage assets in the local area, including the Derwent Valley Mills World Heritage Site through visitor economic activity. Given the scale of the proposal, I give these benefits very limited weight.
24. In addition, the proposal could help support local public transport services, helping to sustain them through use. Users of the glamping pods may also make use of local public rights of way helping to keep them accessible in terms of vegetation growth through active use, and the ability to report maintenance issues to the County Council. However, there would be no guarantee that users would use public transport or use local public rights of way. Therefore, considering the scale of the proposal, I give these benefits extremely limited weight.

⁴ Including *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466, *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant)* [2020] UKSC, *Samuel Smith Old Brewery (Tadcaster) & Oxtan Farm v North Yorkshire CC & Darrington Quarries Ltd* [2018] EWCA Civ 489 and *Euro Garages Ltd v SSCLG & Anor* [2018] EWHC 1753 (Admin)

⁵ Including *Wychavon v SSCLG & Butler* [2008] EWCA Civ 692, *Basildon v FSS & Temple* [2004] EWHC 2759 (Admin) and *Basildon DC v SSETR & Others* [2000]

25. The development would contribute towards the provision of visitor accommodation in the area and, based on the evidence presented I give this benefit limited weight. I also give limited weight to the benefit of continuing to diversify and redevelop the redundant Windmill Nurseries site and put this to a new beneficial use.
26. In response to objection comments, the appellant has highlighted a permitted development rights fall-back position under Class BC of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This would allow the use of land as a recreational campsite for not more than 60 days in any calendar year, with the provision of not more than 50 pitches.
27. In contrast, the proposal before me is for permanent structures. There is also no substantive evidence to demonstrate that there is a greater than a theoretical possibility or a real prospect that such development might take place. Thus, I give limited weight to this consideration.

Conclusion

28. I have found that the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. Paragraph 153 of the Framework is clear that substantial weight should be given to any harm to the Green Belt, including harm to its openness, and that '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.
29. I give limited weight to the contribution towards the provision of visitor accommodation and redeveloping the site as well as the fall-back position. In addition, I give the economic benefits very limited weight. Furthermore, I give extremely limited weight to the benefits relating to public transport and local public rights of way. When drawing this together, the other considerations advanced in support of the appeal do not clearly outweigh the totality of the harm that I have found. Consequently, the very special circumstances necessary to justify the development do not exist. I therefore conclude that the scheme would conflict with the Framework and Policy ENV2 of the LP.
30. Even if paragraph 11 d) of the Framework is engaged, then the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, given the harm identified to the Green Belt.
31. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal does not succeed.

L Wilson

INSPECTOR