



Appeal Decision

Site visit made on 8 August 2023 by Andreea Spataru BA (Hons) MA MRTPI

Decision by S. Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/G4240/W/23/3318999

Land adjacent Tobits, Mount Road, Tameside, Hyde SK14 3AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Pagett against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 22/01128/FUL, dated 17 November 2022, was refused by notice dated 17 February 2023.
 - The development proposed is for the erection of one detached infill dwelling.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan policy;
 - The effect of the proposal on the openness of the Green Belt;
 - If the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons for the Recommendation

Whether inappropriate development in the Green Belt

4. The Framework sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, but in paragraph 149 lists a number of exceptions to that, one of which, paragraph 149 (e) includes limited infilling in villages.
 5. The Council has referred to two policies in their reason for refusal: Policies 1.10 and OL1 of the Tameside Unitary Development Plan Written Statement 2004 (UDP). UDP Policy 1.10 seeks to protect and enhance the natural environment,
-

however it does not specifically refer to developments in the Green Belt. UDP Policy OL1 seeks to protect Green Belt land through resisting the construction of new buildings, subject to certain limited exceptions. These policies pre-date the Framework and are not entirely consistent with it. In particular, UDP Policy OL1 is more restrictive in relation to the construction of new residential development in the Green Belt. Consequently, and having regard to paragraph 219 of the Framework, the weight I attach to UDP Policies 1.10 and OL1 is limited.

6. In line with the Framework paragraph 149 (e), it is necessary to consider whether the proposal would be in a village; if that is the case whether it represents infilling; and if so, would that infilling be limited. Whether the appeal site is within a village is a matter of dispute between the main parties. The appellant claims that the proposal amounts to limited infilling within the village of Werneth Low. The Council does not recognise Werneth Low as a village and states that the appeal site is not located within a defined village boundary.
7. The definition of a village is not provided in the Framework or relevant development plan policy or guidance. Accordingly, the matter is one of judgment. The appeal site is part of a cluster of residential properties, located within the countryside. The appellant indicates that there are around 50 dwellings within 500m of the appeal site. I note these properties are mostly located in small sporadic groups to the south of Werneth Low Road, along Mound Road and Uplands Road with areas of countryside in between. Werneth Low Golf Club and Hyde Cricket and Squash Club are not far from the site and there is also a public house further west of the Hyde Cricket and Squash Club.
8. Moreover, there are limited facilities in the vicinity that would provide a village centre or identity, such as shops, a village green, place of worship or school. Most local facilities appear to be provided in the nearby settlement of Gee Cross. Access from the appeal site to those facilities appears to be restricted solely to private transport.
9. Whilst I acknowledge that access to public transport and employment opportunities is usually limited in a rural area, I am not persuaded that a settlement can be considered a village only by having regard to a specific number of dwellings. Furthermore, sports venues such as those located nearby are not uncommonly located at the edge of settlements, and their presence alone does not justify the status of the settlement as 'village'. Similarly, given the location of the public house outside the cluster of properties, I do not find its presence is a deciding factor in determining the status of the settlement.
10. Therefore, as I have found that the appeal site is not located within a village, there is no requirement to assess whether the proposal represents infilling or if the infilling would be limited. Accordingly, the appeal proposal would be inappropriate development in the Green Belt, which is, by definition, harmful. It would therefore conflict the provisions of the Framework.

Openness

11. The Framework indicates that openness, which has a spatial as well as a visual aspect, is an essential characteristic of the Green Belt.

12. The erection of the proposed dwelling will inevitably affect the openness of the Green Belt in terms of the spatial aspect as it will introduce a permanent solid structure on land that is currently open and free from development.
13. The property would be visible from Mount Road, as well as the public footpath located immediately to the south of the appeal site. The combination of the volume and mass of the building, and the residential use of the site, including the driveway and parking area, would represent an intrusion of residential development in the openness of the site. As a result, both in spatial and visual terms, the openness of the Green Belt would be reduced. Although in isolation the loss of openness would be limited, nonetheless, there would be a degree of harm arising from this.

Other considerations

14. The Framework states 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.
15. The main parties agree that the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. On that basis, the tilted balance should be engaged. However, paragraph 11.d of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless, (di.) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. It is clear from footnote 7 that land designated as Green Belt is included in this category.
16. Consequently, as the appeal site is within the Green Belt, and I found that the development is inappropriate, the weight given to the proposal in terms of its contribution to the supply of houses as a windfall site is limited. Likewise, given the inappropriateness of the development in this location, I consider the economic, social, and environmental benefits of the proposal to be limited.
17. I note that there were several objections regarding the effect of the development on the living conditions of the occupiers of neighbouring properties, and on the character and appearance of the area. Whilst I have had regard to them, they have not informed my conclusion regarding the inappropriateness of the development in the Green Belt.

Whether very special circumstances necessary to justify the proposal exist

18. To conclude, the appeal proposal would be inappropriate development in the Green Belt, which would, by definition, be harmful to the Green Belt. It would also cause limited harm to the openness of the Green Belt. The Framework requires that substantial weight is given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
19. Despite having regard to all the other considerations put before me, I consider that taken together, the factors cited in its favour do not clearly outweigh the harm the scheme would cause. Consequently, very special circumstances do not exist, and the proposal would conflict with the Framework.

Recommendation

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and my representative recommendation and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR