



Appeal Decision

Site visit made on 18 October 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/T2350/W/22/3303913

5 Hawthorn Close, Langho, Blackburn BB6 8DZ

- 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 John Aspin against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2022/0506, dated 23 May 2022, was refused by notice dated 21 June 2022.
 - The development proposed is the regularisation of unauthorised change of use of agricultural land to residential curtilage. Resubmission of 3/2022/0049.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development described has already taken place. Accordingly, I shall deal with the proposal as one under s73A of the Act for development already carried out.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies
 - 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

Green Belt

4. The Government attaches great importance to Green Belts; the essential characteristics of Green Belts are their openness and their permanence. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. Policy EN1 of the Ribble Valley Borough Council – A Local Plan for Ribble Valley 2008-2028 [2019], (the RVLP), clarifies that the overall extent of the Green

Belt will be maintained in the borough to safeguard the surrounding countryside from inappropriate extension.

6. Paragraph 150 of the Framework lists certain forms of development which are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 150 d) includes material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). However, the change of use of land for residential purposes is not supported as an exception.
7. The use of the land extends the manicured domestic garden area into a previously rough grassed agricultural field. This forms part of a distinct and contrasting rural landscape when compared to the developed character of Hawthorn Close and the adjacent length of Whalley Old Road. The annexing of the land for residential use is in conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment¹. Accordingly, it falls outside of any of the listed exceptions in Paragraph 150 of the Framework and thereby constitutes inappropriate development.
8. In addition to the harm arising from inappropriateness, there is some loss of spatial and visual openness arising from the presence of a domestic building, an enclosed storage area, a pergola and introduced hard surfacing. Some of these aspects of the development are visible from parts of Hawthorn Close, Whalley Old Road and, to a more limited degree, a footpath to the south.
9. As inappropriate development in the Green Belt, the change of use is contrary to Policy EN1 of the RVLP as it seeks to protect the Green Belt for its identified purposes. For similar reasons it conflicts with the Framework.

Other Considerations

10. In support of the proposal, the appellant refers me to the provisions of Policy DMH5 of the RVLP which relates to residential and curtilage extensions. However, its provisions are qualified by a requirement to accord with any relevant designations within which the site is located. In the context of a Green Belt area and my finding above, the provisions of Policy DMH5 are therefore disengaged. I therefore attribute it little weight.
11. I note the appellant's offer to remove existing structures placed on the land to reinstate its openness. Furthermore, such incursions could be prevented in future by the removal of permitted development rights if its use was conditionally approved. Their removal would enhance the openness of the site. However, as there is little before me to demonstrate that they currently have any lawful status, this is not a benefit in favour of the development. Although it could limit the harm to openness, it would not address the conflict with the purposes of including land within the Green Belt. It is therefore a matter of negligible weight in the appeal.
12. The appellant refers me to other changes of use that have taken place on the wider parcel of land to the south of the housing area. Of these, those which relate to agriculture and equine uses are not considered inappropriate in the Green Belt under the terms of Paragraphs 149 and 150 of the Framework. If associated extensions to garden areas subsequently or concurrently occurred,

¹ Paragraph 138 c) of the Framework

these were not described within those permissions² and may not therefore benefit from planning permission or any lawful status. They are not therefore developments that lend support for inappropriate development.

13. A planning permission 3/2018/0275 granted by the Council relates to a domestic garage. However, there are also provisions for the extension of residential buildings in the Green Belt under Paragraph 149. This is not therefore a matter in favour of the appeal development.
14. The planning status of land alongside a neighbouring property at 6 Hawthorn Close is unclear. As there is limited clarification or demonstration that this area benefits from any lawful use status as a garden extension, it is not a good reason to find in favour of the use of the land at No5.
15. The appellant highlights that land previously forming part of the field was granted permission under application Ref. 3/2017/0136 is used as an extended garden area and domestic access to a property on Whalley Old Road. This land is, in part, contiguous with the appeal site. However, there is little information provided as to the detail of that proposal or the circumstances in which that decision was made. Elsewhere in the appellant's submissions, it is described as agricultural development. I am therefore unable to draw comparisons, or otherwise, to the appeal development. Accordingly, it is a matter to which I attribute limited weight.
16. In support of the proposal the appellant refers me to a condition of a family member which is assisted by opportunities for outdoor activity facilitated by the enlarged garden area. Having regard to those health circumstances and supporting documentation, I find the development could be beneficial to the health and development of that individual. However, it would duplicate opportunities elsewhere on the site – notably the existing rear garden area. It would not therefore be exclusively dependent upon it. Nevertheless, as a matter supported in Section 8 of the Framework, this is a significant benefit of the development.

Planning Balance and Conclusion

17. The residential use of the land is inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The scheme is contrary to Policy EN1 of the RVLP.
18. The considerations presented by the appellant, including the personal circumstances of a family member, whether taken singularly or cumulatively, do not outweigh the harmful effect of the development on the essential characteristics of the Green Belt. Consequently, the very special circumstances necessary to justify granting planning permission do not exist. The development would be contrary to the adopted development plan and the Framework read as a whole, and there are no other material considerations to indicate a decision otherwise than in accordance with it.
19. In exercising my function on behalf of a public authority, I have considered the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which includes age and disability. Since there is the potential for my decision to affect persons with

² 3/2011/0055 and 3/2019/0355

protected characteristics, I have had due regard to the three equality principles set out in Section 149 of the Act. I have also had regard to rights conveyed within the Human Rights Act.

20. I have found that the negative impacts of dismissing the appeal will arise from the ability to provide extended outdoor garden space. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on those with protected characteristics are not a strong justification for setting aside national and local policies with the legitimate aim of permanently protecting Green Belt land.
21. In doing so I am mindful that my decision would not prevent access or cultivation of the land which would provide much of the opportunities being sought. Nor would it prevent the use of the existing lawful garden area from providing open activity space, or supervised access to alternative outdoor space elsewhere.
22. For the above reasons, I conclude that the appeal should be dismissed, and this is a necessary and proportionate approach to the legitimate planning aim of permanently protecting Green Belt land.

R Hitchcock

INSPECTOR