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# Appeal Decision

Site visit made on 17 November 2014

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20<sup>th</sup> November 2014**

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**Appeal Ref: APP/A0665/A/14/2225767**

**Cogshall Mill and House, Cogshall Lane, Comberbach, Northwich, Cheshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr David Cope against the decision of Cheshire West & Chester Council.
  - The application Ref 14/00273/OUT, dated 20 January 2014, was refused by notice dated 19 March 2014.
  - The development proposed is a single detached dwelling on land rear of Juniper Cottage, Cogshall Lane, Comberbach, Cheshire CW9 6BS.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration. In addition, whilst I note the description of development on the application form, in the above heading I have used the description as given on the appeal form as it appeared more accurate.

## Main Issues

3. The main issues in the appeal are;
  - Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework;
  - The effect of the proposed development on the openness of the Green Belt; and
  - If the proposal would be inappropriate development, 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 it.

## Reasons

*Whether inappropriate development and openness*

4. The appeal site is situated about 300m from Cogshall Lane. It is indicated that the site was the location of the former Cogshall Mill and its associated dwelling. The buildings were largely removed from the site about 100 years ago, although the remains of the buildings can still be seen on the site. The

surrounding area is open agricultural land, with sporadic houses and farmsteads.

5. Paragraphs 89 and 90 of the *National Planning Policy Framework* (the Framework) set out the forms of development that are not inappropriate within the Green Belt. The Framework establishes that new buildings within the Green Belt are inappropriate unless, amongst other things, it involves the limited infilling or the partial or complete redevelopment of previously developed sites. This is provided that it would not have a greater impact on the openness of the Green Belt, and the purposes of including land within it, than the existing development.
6. Policy GS3 of the *Vale Royal Local Plan First Review Alteration (adopted June 2006)* (VRLP) sets out the forms of development that are not inappropriate within the Green Belt. Whilst the proposal would not be for any of the forms of development listed in this policy, it only allows for the limited infilling and redevelopment of major existing developed sites, rather than the wider criteria set out in the Framework. I note that the Council have used the latter in determining the application.
7. It is disputed by the parties whether the site constitutes previously developed land. Annex 2 of the Framework provides a definition of such land and states that it excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time. In this case the Council argue that the remains of the buildings have blended into the landscape but the appellant does not agree.
8. Notwithstanding this, even if the site is considered to be previously developed land to fall within the exception in paragraph 89 of the Framework, as well as being previously developed land, the development must also not have a greater impact on the openness of the Green Belt, and the purposes of including land within it, than the existing development.
9. Openness is an essential characteristic of the Green Belt. Whilst there may have been buildings on the site historically, the buildings were removed from the site approximately 100 years ago with just limited remains being left on the site. As such the site has been devoid of buildings for a considerable period of time, including all the time it has been designated as Green Belt. As the proposals are in outline, the exact size and scale of the dwelling proposed is for future consideration, although the appellant has indicated that it would be no larger than the footprint of the previous buildings on the site. Be that as it may, in that the development would result in the siting of buildings where none exist at present, the openness of the Green Belt would be reduced.
10. The appellant has suggested that the proposal would be screened from view to a large extent by the existing mature vegetation on and around the site. However, this does not mean that the proposal would not affect the openness as a lack of visibility does not in itself mean there would be no loss of openness.
11. Thus, even if the proposal were to amount to the redevelopment of previously developed land, as suggested by the appellant, it would still be inappropriate development because it would have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing site.

12. In the light of the above I therefore conclude that the proposal would be inappropriate development, which according to paragraph 87 of the Framework is, by definition, harmful to the Green Belt. In addition, there would be a degree of harm arising from the loss of openness and I afford the harm that would be caused by this, considerable weight.

#### *Other Considerations*

13. The appellant has put forward a number of other considerations which he considers would justify the proposal. These include that the development would have a very limited impact on the openness of the Green Belt. However, as indicated above, I conclude that the scheme would harm the openness of the Green Belt.
14. It is suggested that the remains of the buildings on the site are very prominent and the development would enhance the appearance of the site. Although the remains of the buildings are visible on the site, as is the cobbled access track, they are not particularly unsightly. Whilst it is suggested that the site attracts a variety of anti-social behaviour, there was no evidence of any litter or graffiti at the time of my site visit and I have not been given any substantive evidence in support of this claim. Moreover, the vegetation both on and surrounding the site, together with the fact that the site is set in a hollow in the landscape, mean that the remains are only visible in short range views from the adjacent footpath. As a consequence, the site does not at present detract from the character and appearance of the surrounding countryside and so the development of the site would not result in significant improvements in this regard.
15. It is stated that the Policy GS3 of the VRLP is out of date as it only allows for the limited extension, alteration and replacement of existing dwellings whereas the Framework allows for the extension, alteration and replacement of all buildings, not just dwellings, subject to certain limitations. However, given that there is currently no building on the site, and this has been the case for nearly 100 years, these criteria are not relevant to the appeal scheme.
16. The site is currently unused and it is stated that it has no agricultural purpose and so its development would make more effective use of the land. Vehicular access to the site would be possible using the existing cobbled track that leads to the site and it is confirmed that the bridges over which this track passes are structurally sound. As a result the appellant has indicated that no new infrastructure would be required to serve the dwelling. This, together with the limited visibility of the site would ensure that the visual impact on the landscape of a dwelling on the site would be minimal. These matters, together with the letters and petition in support of the proposal, favour the scheme.
17. The appellant has noted that the development would make a small contribution to the housing stock in the borough. Although the Council initially indicated that they did not have a five year housing land supply, they have subsequently stated that they do now have one and this has not been disputed by the appellant. However, given that even in situations when a five year supply cannot be demonstrated the Planning Practice Guidance states that "unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt" I give this contribution to the housing supply minimal weight.

18. It is suggested that the dwelling would enable the family business to continue operating by providing accommodation for the appellant's son and his family. However, given the proximity of the site to the village of Comberbach which has a wide variety of housing, I am not persuaded that the appeal scheme represents the only way that suitable accommodation can be found in the locality. Moreover, I have not been provided with any substantive evidence to indicate that a dwelling on the site is essential for the needs of the business.
19. Although the design of the dwelling is a matter for future consideration, the distance to other houses is such that I am satisfied that a house could be accommodated on the site without having any detrimental impact on the living conditions of neighbouring occupiers or the adjacent public footpath. In addition the Council have indicated that the proposal would not impact on the setting of the nearby Cogshall Hall which is a Listed Building. Nevertheless, an absence of harm in these regards is at best a neutral factor.
20. My attention has been drawn to another appeal where less physical remains of buildings remained on the site than in this case. However, I do not have any details of this scheme and so cannot be certain that the circumstances are the same. In any case I have considered the appeal proposals on their own merits.

#### *Other Matters*

21. The Council have indicated that the Tree Survey submitted does not adequately assess all the trees that may be affected by the proposal. However, if I were minded to approve the appeal, I am satisfied that further survey work could be obtained by way of conditions.

#### **Conclusion**

22. Overall, the proposal would be inappropriate development in the Green Belt which is harmful by definition. According to the Framework (paragraph 88) substantial weight has to be given to any harm to the Green Belt. In addition, the proposal would result in a reduction in openness. I conclude 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.
23. As a result, I consider that the proposal would be contrary to the Framework and to Policy GS3 of the VRLP. Therefore, I conclude that the appeal should be dismissed.

*Alison Partington*

INSPECTOR