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## Appeal Decision

Site visit made on 9 December 2024

**by David M H Rose BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 January 2025**

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**Appeal Reference: APP/W3005/W/24/3347049**

**Land Between 124 and 142, Church Lane, Selston, NG16 6FD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs D Wilson against the decision of Ashfield District Council.
  - The application Reference is V/2024/0002.
  - The development proposed is described as an 'Outline Application With All Matters Reserved For A Maximum of 8 Dwellings'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. Notwithstanding the Council's concern about the red line application site boundary not extending to the edge of the metalled part of Church Lane, the planning application was validated and decided without the alleged deficiency being cited as part of the reasons for refusal. The appeal is to be determined on that basis.

### Main Issues

3. The main issues flowing from the reasons for refusal are:
  - 1) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (December 2024) and any relevant development plan policies;
  - 2) the effect of the proposal on the openness of the Green Belt;
  - 3) whether the proposal would be likely to have an adverse effect on reptiles and landscape features; and
  - 4) if the proposal is found to be inappropriate development, 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 the proposal would be inappropriate development in the Green Belt**

4. The Framework, at paragraph 154, sets out that development in the Green Belt is inappropriate unless one of eight exceptions applies, including '*g) limited infilling in villages*'. Infilling is a generally understood concept. However, limited is not qualified.

5. Saved Policy EV1 of the Ashfield Local Plan Review (2002) similarly indicates that permission will not be granted for inappropriate development in the Green Belt. It continues to identify '*appropriate development*' as, amongst other things '*limited infilling*' within four named villages washed over by Green Belt. It does not embrace the generality of limited infilling in villages as set out in the Framework. Therefore, it is to be considered as inconsistent with national guidance.
6. The text supporting the policy indicates that '*infill will normally comprise one or two dwellings in a small gap in existing development*'. However, that is not a definitive definition and it does not reflect the need to establish whether, initially, a site is within a settlement irrespective of any boundaries defined in the development plan.
7. The settlement of Selston has a complex form. In essence, for the purposes of this appeal, it is in two parts. These comprise its principal part, with the majority of its services and facilities, immediately to the south-west of the M1 Motorway. Its secondary element, associated with St Helen's Church, lies beyond a swathe of Green Belt which separates the two components of the settlement. The appeal site is located outside the settlement boundary within this part of the Green Belt.
8. In terms of development along Church Lane, beyond Stoney Lane, dwellings of various ages line both sides of the road with some limited 'backfilling'. As Church Lane turns, just before the appeal site, it takes on a distinct open character on its north-western side, before Broom Close Farm, only to resume in ribbon form as far as, and into, Hobsic Lane.
9. The appeal site lies directly opposite the farm and extends almost to the junction of Church Lane with Hobsic Lane. Beyond the appeal site a large modern bungalow sits in front of an earlier dwelling before a group of traditional farm buildings, converted to residential use, more modern barns, and a further bungalow in a generous plot. The opposite side of Church Lane hereabouts is undeveloped.
10. In short, the appeal site is adjoined on two sides by residential built form, and is faced by dwellings on the opposite side of Church Lane all of which lie within the defined settlement. Whilst the group beyond the appeal site appears somewhat as an outlier, and despite the undeveloped nature of the subject land, the circumstances on the ground point to the appeal site being '*within a village*' for the purposes of the Framework.
11. Given the pattern of the settlement, and having particular regard to residential buildings either side of the appeal site, the proposal would occupy a gap in an otherwise developed frontage. Therefore, it can also be said that the proposal would be '*infilling*' as commonly understood and perceived. In this regard I note the parallels with the appeal decision at Beck Lane, Sutton in Ashfield,<sup>1</sup> where the Inspector viewed that development as infilling a gap in an otherwise built up frontage, despite its countryside designation.
12. The next step is to consider whether the proposal would amount to limited infilling. In this regard, the Appellant draws attention to an appeal decision at Melton Road, Stanton on the Wolds.<sup>2</sup>

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<sup>1</sup> APP/W3005/W/23/3327714 – Erection of up to 9 dwellings

<sup>2</sup> APP/P3040/W/19/3229372 – Erection of 2 dwellings

13. It is noted that the Inspector agreed with the parties, at paragraph 10, that the proposal for two dwellings, whilst outside the village boundary, was in a village. Similarly, the appeal decisions at Moor Lane Gotham<sup>3</sup> and Grove Road, Knowle<sup>4</sup> do nothing more than illustrate that a single dwelling within an area of ribbon development was accepted as *'limited infilling'*.
14. The Appellant's contention that the parallels between the above appeal cases and the parcel of land under consideration are strong, is qualified by *'In particular, it is our case that the Appeal Site comprises an infill plot of land within this otherwise built-up frontage .....'* However, this overlooks the fundamental test as to whether the development would be *'limited infilling'*.
15. It is clear to me that the whole premise of the Appellant's case of assessing the proposal as *'not inappropriate development in the Green Belt'*, in accordance with the exception outlined in the Framework, is incomplete in the sense that it has to be demonstrated that the proposal would be *'limited infilling'*.
16. Despite the unkempt nature of the site and the enclosing frontage hedgerow, the land represents a wide distinguishing gap, of some 130 metres, between established properties, where the settlement begins to run out into the open countryside. Importantly, the site itself forms the foreground to, and a contributory part of, the extensive tract of open land that separates the two parts of Selston.
17. Taking all these factors into account, I consider that the proposal would not be infilling of a limited nature.
18. The Framework also provides, at paragraph 155, that the development of homes in the Green Belt should also not be regarded as inappropriate where:
  - a. *'The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
  - b. *There is a demonstrable unmet need for the type of development proposed;*<sup>5</sup>
  - c. *The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and*
  - d. *Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 [of this Framework].'*
19. Grey belt land is defined 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' of the Framework.*
20. Purpose (a) is *'to check the unrestricted sprawl of large built-up areas'*; purpose (b) is *'to prevent neighbouring towns merging into one another'*; and purpose (d) is *'to preserve the setting and special character of historic towns'*.
21. None of these apply to the appeal site. Therefore, the appeal site can be considered to be *'grey belt'* land on the basis that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the Ashfield Local Plan Review (2002).

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<sup>3</sup> APP/P3040/W/19/3224712

<sup>4</sup> APP/Q4625/W/17/3188046

<sup>5</sup> Which, in the case of applications involving the provision of housing, means the lack of a five year supply of deliverable housing sites, including the relevant buffer where applicable, or where the Housing Delivery Tests was below 75% of the housing requirement over the previous three years

22. The Council acknowledges that it does not have a five year supply of deliverable housing sites and so the second strand of paragraph 155 is met.
23. The appeal site is adjoined on its two sides by frontage residential development and faced with houses on the opposite side of Church Lane. These are within the Named Settlement of Selston where saved Policy ST3 indicates that limited development will be permitted. It can therefore be concluded that the proposed development would be in a sustainable location. The third limb of Framework paragraph 155 is fulfilled.
24. The next step is to decide whether the proposal meets the 'Golden Rules' requirements which apply to '*major development involving the provision of housing ..... on sites in the Green Belt subject to a planning application*'. Major development for housing is defined in the Framework Glossary as: '*where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more*'. The appeal site has an area of 0.67 hectares and so the contributions required by the 'Golden Rules' are engaged.
25. The first, in the absence of an up-to-date development plan affordable housing contribution, a 50% affordable housing requirement should be applied by default. The proposal is a wholly market housing scheme and, on this ground alone, does not comply with the Golden Rules.
26. Second, there are no contributions for improvements to local or national infrastructure, (noting that none have been identified as necessary). Third, there are no contributions for the provision of new, or improvements to existing, green spaces that are accessible to the public (albeit the site has immediate access to a public footpath leading into the open countryside).
27. Consequently, the Golden Rules do not retract the principle that development in the Green Belt is inappropriate unless it meets one of the eight exceptions set out in paragraph 154 of the Framework as discussed above.
28. This leads to the conclusion that the proposal would be inappropriate development in the Green Belt having regard to the Framework. Inappropriate development is, by definition, harmful to the Green Belt and is to be given substantial weight.

**The effect of the proposal on the openness of the Green Belt**

29. Despite the extensive frontage hedgerow and the untidy nature of the site, the visual dimension of openness is clearly apparent, most notably from the public footpath which runs immediately outside the north-eastern boundary of the appeal site.
30. In combination with its spatial openness, the appeal site forms part of a rising swathe of open land, to the south-east of this secondary part of the settlement, which in turn provides the distinguishing Green Belt separation and countryside aspect between the two distinct components of Selston.
31. The proposed development, by its nature and scale, would encroach into the open countryside and new buildings, domestic curtilages and associated paraphernalia would lead to a meaningful loss of openness.
32. Although the Appellant draws attention to the Strategic Green Belt Review 2016 (updated 2021) and the site's low combined score against the five

purposes of Green Belt, it is notable that the site scored the maximum of five out of five for its role in assisting in safeguarding the countryside from encroachment. My finding is entirely consistent with that, leading to the conclusion that the proposal would cause significant harm to the openness of the Green Belt.

**The effect on reptiles and landscape features**

33. The second and third reasons for refusal relate to the alleged inadequacy of information on protected and priority species and on trees and hedgerows.
34. In response, as part of the appeal, the Appellant's Reptile and Great Crested Newt Survey confirms that '*reptiles are unlikely to be negatively impacted by the development*'. Similarly, an Amended Tree Survey identifies existing landscape features and measures for their protection or replacement where relevant.
35. For my part, I note that the Reptile and Great Crested Newt Survey was carried out in accordance with the advice in Froglife 1999 and by a competent ecologist. I am content that the generality of the condition recommended by the Local Planning Authority would provide adequate safeguarding.
36. As for the Amended Tree Survey, I am satisfied that this provides a sufficient basis to conclude that important trees could be safeguarded at reserved matters stage, given that the submitted site layout is to be treated as indicative. Thus, there would be no conflict with the directly relevant Local Plan Policy EV8.
37. On this basis, there is no demonstrable evidence to indicate that the proposal would be likely to have an adverse effect on reptiles and landscape features.

**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**

38. Turning to the planning balance, the harm by reason of inappropriateness, countryside encroachment and the harm to openness is to be given substantial weight. The effect on reptiles and landscape features is neutral.
39. In terms of other considerations, the Government's objective is to significantly boost the supply of homes. The appeal site is in an accessible location; the housing land requirement set out in the Local Plan is out-of-date; the District has a considerable housing land shortfall;<sup>6</sup> and house building, in general, brings allied benefits to the local economy. In the round, and in the context of delivering up to eight new windfall homes on a small/medium site, this consideration (irrespective of the failure to meet the Golden Rules) merits significant weight.
40. On this basis, I consider that the identified harm would not be clearly outweighed by other considerations so as to amount to the very special circumstances to justify the proposal. Therefore, the very special circumstances necessary to justify the development do not exist.

**Conclusion**

41. For the reasons given above the appeal is dismissed.

*David MH Rose*

Inspector

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<sup>6</sup> Less than 3 years at 1 April 2023