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## Appeal Decision

Hearing held on 17 May 2016

Site visit made on 17 May 2016

**by John Chase MCD, Dip Arch, RIBA, MRTPI**

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

**Decision date: 16 June 2016**

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**Appeal Ref: APP/B1605/W/16/3141985**

**Land off Brock Close, The Reddings, Cheltenham, Gloucestershire, GL51 6RL**

- 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 Newbridge Construction Ltd, Evesham and Pershore Housing Association, Mr and Mrs A Davis against the decision of Cheltenham Borough Council.
  - The application Ref 15/00573/OUT, dated 11 March 2015, was refused by notice dated 8 July 2015.
  - The development proposed is residential development for 27 dwellings and associated open space with access off Brock Close.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was in outline, with appearance and landscaping reserved for later consideration.
  3. In order to resolve the second reason for refusal, concerning highway safety, the appellants submitted revised drawings after the Council's planning decision. Whilst these included alterations to the layout of buildings, it was the view of both the Council and of local residents present at the hearing that they did not amount to substantial changes to the nature of the scheme. In the circumstances, there is no reason to conclude that any party's interests would be prejudiced by consideration of these amendments, and therefore they are included in the assessment of the appeal.
  4. At the hearing the appellants submitted draft unilateral undertakings, made in accordance with Section 106 of the Town and Country Planning Act 1990. The obligation to provide affordable housing accords with Policy HS 4 of the Cheltenham Borough Local Plan, Second Review, adopted 2006 (LP) and is taken into account in the appeal, as are provisions to overcome highways concerns. The proposed contributions to other infrastructure do not have a material bearing on the main issue, the assessment of which forms the basis of this decision, and there is no necessity to establish whether they satisfy the terms of the Community Infrastructure Levy Regulations 122 and 123.
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## **Main Issue**

5. There is no dispute between the main parties that the proposal amounts to inappropriate development in the Green Belt in terms of chapter 9 of the National Planning Policy Framework (NPPF), nor any reason to disagree with that analysis in this decision. Inappropriate development is, by definition, harmful to the Green Belt, and can only be allowed in very special circumstances, where the harm is clearly outweighed by other considerations. LP Policy CO 6 creates a presumption against the construction of new buildings in the Green Belt. Taking account of this, and of the procedure set out in the NPPF, the main issue is whether the harm by virtue of being inappropriate development in the Green Belt, any harm to the openness of the area, and any other harm, would be clearly outweighed by other considerations, and would amount to the very special circumstances required to justify the proposal.

## **Reasons**

6. The site is mainly open grassland to the rear of ribbon development housing alongside The Reddings, on the western edge of Cheltenham. Its southern side is bounded by a railway line, beyond which is open countryside. There is a mobile home and caravan park to the east, whilst the northern part of the western boundary is occupied by housing and car parking in Brock Close. The remainder of this boundary is predominantly open, but with extended residential gardens beyond. The whole area is washed over by the Green Belt, but also contains land designated as Principal Urban Area (PUA), including on either side of the site. Whilst development is directed to such areas, there are no specific policies related to the designation, nor reason to consider that it would override Green Belt policy. The majority of the site falls outside it.

### *Openness*

7. Openness is a principal characteristic of the Green Belt, and the site presently meets this criterion, being mainly laid to grass, with only a few small agricultural buildings. There is little doubt that the construction of 27 dwellings, along with their associated roads, gardens and residential activity, would lead to a significant loss of this openness.

### *Green Belt Functions*

8. It is the appellants' contention that the nature of the site, and development of adjoining land, has undermined its role in achieving the purposes of the Green Belt, as set out in NPPF para 80. It is noted that it is contained by the railway, the caravan park, and by housing, so that it is not contiguous with open countryside, and that infill development along The Reddings, permitted by Green Belt policy, has given the area an urban character. Other parts of this section of Green Belt have had recent permission for development.
9. Taking account of these points, and of the appellants' Landscape Assessment, it is noted that the railway provides a physical barrier, but it is not an especially visible feature, being at a similar level to the site and partially screened by vegetation. To the observer, the land does not appear isolated from the countryside to the south. Similarly, the immediately adjoining plot to the south west is undeveloped vegetation, and the gardens beyond are predominantly open. It is certainly true that the site is bordered by development, but this

does not amount to a complete containment or separation. It has a different character from the developed frontage along The Reddings.

10. Whilst planning permission has been granted for employment development on Green Belt land to the north, the Council indicate that special circumstances applied to this case and, in any event, it is not so close to the appeal site as to have a significant effect on it. There is no substantial case that there is insufficient open space in this portion of the Green Belt to serve the functions of checking sprawl and preventing the merger of neighbouring towns, nor do the Green Belt Studies<sup>1</sup> referred to by the parties lead to a different conclusion.

### *Housing Supply*

11. The Council accept that they are not able to demonstrate a five year supply of deliverable residential land, as required by NPPF para 47, and that there is a need for both market and affordable housing which the appeal site would help to fulfil. In these circumstances, and having regard to the recent Court of Appeal decision at Cheshire East<sup>2</sup>, it is the appellants' contention that LP Policy CO 6 is a relevant policy for the supply of housing in terms of NPPF para 49, and that it is rendered out of date by the absence of a five year supply.
12. However, this provision does not necessarily invalidate a development plan policy, the weight allocated to it being subject to an assessment of the circumstances. CO 6 is largely consistent with current Government policy for the Green Belt, the permanence of which is an important characteristic. The removal of protection in individual cases to address a short term housing requirement would appear contrary to this need for permanence. Any longer term re-drawing of boundaries which may be necessary is better dealt with in Local Plan preparation, when the wider context is under consideration.
13. The development would not be in accordance with CO 6, and there are not substantial grounds to diminish the weight to be allocated to this policy. In any event, the presumption in favour of development in para 14 of the NPPF does not apply to proposals which are restricted by specific NPPF policies, including those referring to inappropriate development in the Green Belt, and the Planning Practice Guidance<sup>3</sup> indicates that a housing shortfall would be unlikely to outweigh harm to the Green Belt. Overall, the weight of policy and advice is against the view that a shortage of a five year housing supply would be adequate justification for the proposed housing.

### *Other Potential Benefits*

14. The appellants refer to a range of social, economic and environmental benefits arising out of the scheme. In addition to an increased housing supply in a sustainable location, the development would reap economic rewards in terms of construction activity and increased Council Tax and New Homes Bonus income. However, this would be a likely outcome of any housing development, including that outside the Green Belt. The new play space would provide facilities for the wider area, but there is no indication that this is a matter of special importance, and improvement of landscaping and wildlife habitats largely arises out of the need to mitigate the impact of the development.

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<sup>1</sup> Joint Core Strategy Green Belt Assessment 2011 and Cheltenham Green Belt Review 2007

<sup>2</sup> Richborough Estates Partnership LLP v Cheshire East Borough Council and Secretary of State for Communities and Local Government (C1/2015/0894)

<sup>3</sup> Ref ID: 3-034-20141006

15. It is not agreed that the railway line would create a more logical or defensible boundary than at present, especially as the development of this site would create pressure for the further loss of open land in the vicinity, including that to the west. These, and the other matters raised in support of the scheme, do not amount to significant benefits of the proposal.

*Other Matters*

16. Local residents raise a number of other issues, including the effect on road safety, on the living conditions at adjoining property, and on the habitat of protected species, along with a desire to maintain the present rural character of the area. These points were discussed at the hearing and are taken into account, but there is reason to consider that any potential harm could be adequately mitigated by the use of planning conditions or obligations, if the proposal was deemed acceptable in other respects.

**Conclusions**

17. For the reasons given, it is not accepted that the role of the site in contributing to the functions of the Green Belt is so diminished as to have eroded the value of its openness, nor that the need for housing, or the other matters raised, are of overriding importance. The proposal is contrary to LP Policy CO 6, and any perceived benefits do not outweigh this, whilst the detrimental effect on the Green Belt prevents it from being considered a sustainable form of development. It is the conclusion on the main issue that the harm by virtue of being inappropriate development in the Green Belt, and the harm to the openness of the area, would not be clearly outweighed by other considerations, and would not amount to the very special circumstances required to justify the proposal. The appeal is therefore dismissed.

*John Chase*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANTS:**

Mr S Hannaby  
Mr N Phillips

Hannaby Planning Solutions  
Newbridge Construction

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ms E Pickernell  
Mr P Stephenson

Senior Planning Officer  
Planning Policy Team Leader

### **INTERESTED PERSONS:**

Cllr M Collins  
Mr A Sawers  
Ms R De'ath  
Mr G Jones  
Mr R Shackell  
Ms L Smith

Local Resident  
Local Resident, on behalf of Fairhaven Park  
Local Resident  
Local Resident  
Local Resident

## **DOCUMENTS**

- 1 Extract from Cheltenham Green Belt Review, March 2007
- 2 Map accompanying 2015 Issues and Options consultation
- 3 Figure C from AERC Green Belt Review
- 4 Letter from Gloucestershire Highways to Council, 5/1/16
- 5 Representations on behalf of Mr Sawers and Ms De'ath
- 6 Plan showing urban development washed over by Green Belt
- 7 Draft Unilateral Undertakings