
Appeal Decision

Site visit made on 8 November 2016

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 1 December 2016

Appeal Ref: APP/V4630/W/16/3155781

Oakwood Close, Walsall Wood, Walsall WS9 9BP

- 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 J Till against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 15/1803, dated 1 December 2015, was refused by notice dated 23 June 2016.
 - The development proposed is Construction of four dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was in outline, albeit with approval of details of access, layout and scale sought at this stage.

Main Issues

3. The main issues are:
 - (a) Whether or not the proposed dwellings would be inappropriate development in the Green Belt;
 - (b) The effect of the proposed development on the character and appearance of the area; and
 - (c) If the proposal would be inappropriate development in the Green Belt, whether the 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 necessary to justify the development.

Reasons

Inappropriate development

4. Paragraph 89 of the National Planning Policy Framework (the 'Framework') states that the erection of new buildings in the Green Belt is, subject to a number of specified exceptions, inappropriate.
 5. The proposed dwellings would not, due to their proposed use and as they would not be an extension of an existing building or replace an existing building in the same use, fall into any of the exceptions set out in the first four bullet points of paragraph 89.
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6. Under bullet point 5 of paragraph 89, a proposal for a new building is not inappropriate development if it would constitute limited infilling in a village or provide limited affordable housing for local needs. The appeal site is located on the edge of the urban area of Walsall Wood, which, due to its size, extensive employment areas and attachment to other built up areas, does not have the characteristics of a village. The proposed development would also not focus on providing affordable housing. As a result, the proposal does not, even if considered to be infilling, fall within the scope of bullet point 5 of paragraph 89.
7. Under bullet point 6 of paragraph 89, the proposed erection of new buildings is not inappropriate development if it would constitute "*...limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land)... which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development*".
8. The appeal site comprises a small pocket of land which is bounded by existing housing to the north and east. A haulage business operates from an existing building and open storage area to the south of the site. Whilst being mainly open, the appeal site itself contains two small buildings and an area of hardstanding.
9. The Appellant states, and the Council has not refuted, that the 2 buildings on the appeal site were built around 45 years ago for use in connection with the construction of the existing dwellings at Oakwood Close. On this basis, and notwithstanding the earlier nursery use referred to by the parties, they are not agricultural buildings. In these circumstances, and as the buildings have not fully blended into the landscape the site is not necessarily excluded from the definition of Previously Developed Land (PDL)¹ as claimed by the Council.
10. However, the 4 proposed dwellings and garages would, even if developed as single storey structures, have a cumulative site coverage and bulk which would substantially exceed that of the 2 small existing buildings on the site. As the development would therefore have a materially greater impact on the openness of the Green Belt than the existing buildings, it would not, even if the site is PDL, fall within the exception to inappropriate development set by bullet point 6 of paragraph 89 of the Framework.
11. Saved Policy ENV2 of the Walsall Unitary Development Plan (WUDP) 2005 also plays a role in defining inappropriate development in the Green Belt. The appeal proposal is not supported by any of criteria (a)(i) to (a)(iv) in this Policy or, as the site is not a defined major existing developed site, by criterion (a)(v).
12. The appeal proposal could, due to its limited scale and as the site is bounded on three sides by existing development, be regarded as a 'rounding off' of the urban area boundary. In isolation, it would not harm regeneration objectives. These points do not mean however that the proposal would not cause material harm to the openness of the Green Belt.
13. As the proposal does not fall into any of the exceptions set out in paragraph 89 of the Framework or Saved Policy ENV2 of the WUDP it would constitute inappropriate development in the Green Belt. Under paragraph 87 of the

¹ The definition of Previously Developed Land in Annex 2 of the Framework excludes land that is or has been occupied by agricultural buildings, and land that was previously developed but where the remains of the permanent structure have blended into the landscape in the process of time.

Framework inappropriate development in the Green Belt is, by definition, harmful and should not be approved except in very special circumstances.

Character and appearance

14. The character of the area around the appeal site has both urban and rural influences and the interface between the urban area of Walsall Woods and the countryside to the west is also fragmented in this area.
15. The proposed development would, by extending development across a site which is mainly open at present, substantially change its character. However, it would be located next to the existing housing on Oakwood Close and to the east of the site. When viewed from Oakwood Close it would read as an integral extension of the existing development within the Close.
16. Whilst the western boundary of the proposed development would adjoin the nearby countryside, the proposed houses on this side of the site would not extend any further into this countryside than the existing houses along the western side of Oakwood Close. The southern side of the site is visually contained by existing trees and other vegetation and the haulage business to the south. Whilst 2 existing sycamore trees are identified for removal² these are not of particularly high individual amenity value and appropriate new planting could be required within a detailed scheme.
17. The Council could also, through the approval of reserved matters, require the proposed dwellings to be of a suitable design quality. The proposal would also secure the removal of the existing small but ramshackle structures within the site.
18. Having regard to the points set out above, I consider that, whilst the proposal would have an urbanising effect, it would not cause material harm to the character or appearance of the site or the surrounding area.

Other Considerations

19. The appeal proposal would secure the delivery of 4 new houses and thereby contribute to the Government's objective of boosting significantly the supply of housing. I also have no reason to doubt that there is a high demand for housing in the area. However, there is no evidence before me to refute the Council's view that it can currently demonstrate a 5 year deliverable supply of land for housing development, in accordance with paragraph 47 of the Framework. The contribution of the proposal to meeting housing requirements would also be modest due to its limited scale.
20. The parties have indicated that the current designation of the site as Green Belt dates from when the WUDP was adopted in 2005, and that the site had previously been allocated for housing development since the 1980s. This previous history does not, however, over-ride the current Green Belt policies which apply to the site.
21. Whilst the houses at 17 and 19 Oakwood Close have been built in a location which is also in the Green Belt, the Appellant has indicated that outline planning permission existed for these before the land was re-designated. Even if this were not the case an existing permission for these houses would be

² Trees T3 and T4 in the submitted Arboricultural Implications Study

unlikely in itself to provide the very special circumstances needed to justify further inappropriate development in the Green Belt. The recent building of other dwellings outside the Green Belt, for example on Hall Lane, also does not do this.

22. The Appellant has stated that the Council did not consult his family directly about the proposed change in designation to Green Belt before the WUDP was adopted. However, the submitted evidence does not demonstrate that the Council failed to comply with any statutory duty or its established procedures related to consultation in preparing that Plan. There is also no assurance that, even if wider consultation had been undertaken, the site would not have still been designated as Green Belt, particularly as the Inspector who examined the WUDP recommended that this approach be followed.
23. The appeal proposal would secure the re-use of a site which currently appears to be disused and is too small to be viable as a free standing agricultural unit. However, many sites in the Green Belt are likely to share these characteristics and these points do not therefore weigh heavily in favour of the proposal.

Conclusions

24. I have found that the appeal proposal would constitute inappropriate development in the Green Belt. Inappropriate development is by definition harmful. Paragraph 88 of the Framework requires that substantial weight be attributed to this harm.
25. Against this I have found that the proposal would not cause material harm to the character or appearance of the site or the surrounding area. It would also deliver a small number of new dwellings albeit in a Borough in which submitted evidence suggests that a 5 year deliverable housing land supply exists. Whilst other matters have been put forward in support of the appeal, for reasons which I have set out earlier these carry only limited weight. The arguments for granting permission do not, in combination, outweigh the harm that the proposed development would cause to the Green Belt.
26. There are therefore no very special circumstances which justify allowing the proposed development. The appeal proposal would conflict with the provisions of Saved Policies 3.3, ENV2, ENV14(a) and H3(a)(v) of the WUDP and the Framework related to this matter. The proposal would also not comprise sustainable development as defined in paragraph 6 of the Framework.
27. For the reasons set out above, I dismiss the appeal.

Jonathan Clarke

INSPECTOR