
Appeal Decision

Site visit made on 16 December 2016

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 09 January 2017

Appeal Ref: APP/P1805/W/16/3156340

Kings Meadow, Holy Cross, Worcestershire DY9 9QN

- 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 David Pearson against the decision of Bromsgrove District Council.
 - The application Ref 16/0088, dated 31 January 2016, was refused by notice dated 23 March 2016.
 - The development proposed is new detached 3 bed bungalow and associated external works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the course of the appeal the appellant submitted a drawing showing the route of the proposed services and their relationship to the Ash tree in the rear garden of No 17 Kings Meadow. The Council did not determine the planning application on the basis of this drawing. I have considered this drawing under the principles established by the Courts in Wheatcroft and I am satisfied that it does not change the development to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application and the revised drawing.

Main Issues

3. The appeal site is located within the West Midlands Green Belt. Accordingly the main issues in this case are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness and purpose of the Green Belt;
 - the effect of the proposal upon the character and appearance of the area, having particular regard to the siting of the new bungalow and its effect upon an Ash tree; 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.
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Reasons

Whether inappropriate development, openness and purpose

4. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate. There are however a number of exceptions to this, as set out in paragraph 89 of the Framework, including the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), 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.
5. Policy DS2 of the Bromsgrove District Local Plan 2004 (BDLP) identifies housing development in accordance with Policy S9 of the BDLP as one of the exceptions to Green Belt restraint. Policy S9 relates to new housing in the Green Belt, and amongst other matters, allows for limited infill development within the boundary of settlements where a village envelope has been defined.
6. The appellant has provided me with a copy of the Clent/Holy Cross village envelope from the BDLP which indicates that the appeal site is located within it. This is not disputed by the Council. The Council's Residential Design Guide has been adopted as Supplementary Planning Guidance (SPG) and provides guidance on where infill within village envelopes will be acceptable. The SPG states that infill development must be well designed and of a suitable scale so that it can be easily assimilated into the area, whilst avoiding problems with adjoining properties. Examples of infill development along a street frontage are included within the SPG. In that the appeal site is located to the rear of existing housing in Kings Meadow, I find that it would not represent infill development for the purposes of the Framework and Policy S9 of the BDLP. As such the proposal for a new dwelling on the site would result in conflict with Policies DS2 and S9 of the BDLP.
7. However, the BDLP pre-dates the Framework. In that no mention is made within this policy to the redevelopment of previously developed sites being an exception to new buildings in the Green Belt, it is not consistent with the Framework. Taking into account paragraph 215 of the Framework, I find that the provisions of paragraph 89 of this document outweigh development plan policy in this regard.
8. The appeal site comprises a number of garages and an area of hardstanding, and part of the rear garden of No 16 Kings Meadow. The appellant submits that the site is previously developed land (PDL). The Council dispute this, considering that as the site is within a built-up area it is excluded from the definition of PDL as set out in Annex 2 of the Framework.
9. Whilst noting the Council's concerns, the Framework makes it clear that PDL is land which is or was occupied by a permanent structure, including the curtilage of the developed land and any fixed surface infrastructure. In terms of the reference to land in built-up areas, I do not agree that the definition excludes all land in built-up areas, the examples quoted relate to open land including private residential gardens, parks, recreation grounds and allotments. I therefore find that the part of the site where the new dwelling would be sited is PDL. The proposed car parking spaces and turning area would be on part of the garden of No 16 and as such would not be sited on PDL.

10. However, paragraph 90 of the Framework advises that certain other forms of development are not inappropriate in the Green Belt. One such example is engineering operations. The provision of a driveway and car parking spaces can reasonably be described as an engineering operation, so the fact that this element of the proposal is not on PDL does not necessarily mean that the proposal would amount to inappropriate development in the Green Belt.
11. In order to assess whether the proposal would represent inappropriate development in the Green Belt, it is necessary to assess whether or not the scheme would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Openness and permanence are the essential characteristic of Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 80 of the Framework advises that Green Belt serves five purposes, including to check the unrestricted sprawl of large built-up areas; to assist in safeguarding the countryside from encroachment and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
12. The appellant asserts that the proposal would have less of an impact upon the openness and purpose of the Green Belt, but has not provided substantive detail to support this assertion. The proposal would result in the demolition of the garages upon the site, but these would be replaced with a single bungalow which would taller, have a greater floor area and a greater bulk and massing than existing development upon the site. Even taking into account cars parked outside of the garages upon the site, I share the Council's concern that the increase in the amount of built development upon it would result in harm to the openness of the Green Belt. Openness would be reduced. The reduction in hardstanding upon the site to that at present does not lead me to conclude otherwise.
13. Given my findings above, I conclude that as the proposal would have a greater impact on the openness of the Green Belt than the existing development, it was comprise inappropriate development, and would conflict with the purpose of the Green Belt to keep land permanently open.

Character and Appearance

14. Amongst other matters, Policy DS13 of the BDLP requires development to protect the Plan area's essential character and environmental assets, including the setting, form and character of settlements. This policy broadly reflects the core planning principle of the Framework relating to the account that should be given to the different roles and character of different areas.
15. Within the garden of No 17 is an Ash tree, close to the party boundary of the appeal site. The Council acknowledge that this tree is not of high amenity value, and from my observations I have no reason to disagree. The Council is concerned that the provision of services to the new bungalow would cause damage to this tree, as would the use of the access by plant machinery. Whilst noting these concerns, the access into the site is already present and appears to have been used by vehicles. In the absence of substantive evidence to demonstrate otherwise, I am not convinced that plant machinery using the access would be harmful to the tree's health. Furthermore, on the basis of the evidence provided, I am satisfied that a scheme could be suitably designed to ensure that root damage would not occur to this tree as a result of service

provision. This could be controlled by a suitably worded planning condition in the event that the appeal was successful. The effect of the proposal on this tree is not therefore a determining factor in this case.

16. Kings Meadow is an established residential cul-de-sac, comprising semi-detached, 2 storey properties and bungalows fronting the highway and set behind front gardens. The proposed bungalow would be sited to the rear of existing residential development and would extend closer to the adjoining countryside than existing development in the area. In this respect, it would be out of keeping with the character and appearance of this part of the village, in conflict with Policy DS13 of the BDLP.

Other Considerations

17. The Framework makes it clear at paragraph 87 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
18. The appellant has cited a number of reasons in support of the appeal proposal. It is asserted that the removal of the garages would improve the living conditions of nearby occupiers. I accept that when the garages were being used by vehicles, this would have generated a number of daily vehicle movements which would have been higher than the vehicle movements associated with a single dwelling. I note that the garages are largely in a poor state of repair. However, I have not been provided with convincing evidence that their presence is harmful to living conditions, either visually or by the use of the site. Accordingly I attach limited weight to these matters in my overall Decision.
19. The new dwelling would not result in harm to highway safety and the space standards would accord with development plan policy. The design of the dwelling would not be harmful to the character and appearance of the area. However, these matters do not diminish the harm to the Green Belt and the character and appearance of the area and I therefore attach limited weight to these matters as a consideration in this appeal.
20. The appellant submits that the appeal site is in a sustainable location, and from my observations, I have no reason to disagree. The new dwelling would make a contribution, albeit small, to the supply of housing in the area. I attach considerable weight to these matters as considerations in this appeal, albeit that the effects would be limited given the nature of the proposal.

Conclusion

21. The new dwelling would be inappropriate development in the Green Belt. Further harm would be caused as a result of loss of openness and harm to the character and appearance of the area. The Framework establishes that substantial weight should be given to any harm to the Green Belt. I give considerable weight to the proposal resulting in a new dwelling in a sustainable location, however I attach limited weight to the other considerations advanced

in support of the case. Taken as a whole, I conclude that the benefits of the scheme do not outweigh the harm the proposed development would cause to the Green Belt and the character and appearance of the area. Consequently, the very special circumstances necessary to justify the proposal do not exist.

22. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR