
Appeal Decision

Site visit made on 10 January 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 17 January 2017

Appeal Ref: APP/T3725/W/16/3157223

Oak House, Birmingham Road, Budbrooke CV35 7DX

- 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 & Mrs PJ Starley against the decision of Warwick District Council.
 - The application Ref W/16/0928, dated 17 May 2016, was refused by notice dated 15 July 2016.
 - The development proposed is two new dwellings accessed off Old Budbrooke Road.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposal was made in outline form with all matters, except access, reserved.

Main Issues

3. The main issues 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;
 - if the development would be inappropriate, whether the harm to the Green Belt by way 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 it.

Reasons

Inappropriate development

4. The Council accept that they do not have a five year housing supply. Paragraph 49 of the Framework states that in such circumstances, relevant policies for the supply of housing should not be considered up-to-date. Consequently the Council consider that Policy RAP1 of the Warwick District Local Plan (the 'Local Plan'), which directs new housing to specific areas, is out of date. I agree with this conclusion and therefore give this development plan policy only limited weight.
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5. Furthermore, the advice in the fourth bullet point in paragraph 14 of the Framework is applicable. The second part of this bullet point advises that planning permission should be granted unless specific policies in the Framework indicate development should be restricted. The footnote to this paragraph confirms that such specific policies include those relating to the Green Belt.
6. The site is within the Green Belt. The appeal site forms part of the large rear garden of Oak House. This house is positioned on the corner of Old Budbrooke Road and Birmingham Road and the appeal site fronts onto Old Budbrooke Road. To its south it is bounded by the offices of Warwickshire Trading Standards and there is a row of four other dwellings east of Oak House. In the wider area there is some residential development to the west of Old Budbrooke Road, and an additional commercial property and Warwick Parkway train station further south of the trading standards unit. The appellant suggests that the nature of the site's surroundings and the fact that the built up area of Warwick is separated from this cluster of development only by the A46, indicates that the vicinity should not be within the Green Belt. However I must consider the appeal on the basis of the site's current designation and it is not for me to determine if the Green Belt boundary is correctly positioned.
7. Paragraph 89 of the Framework is clear that the construction of new buildings in the Green Belt is inappropriate. However it advises that one exception to this is limited infilling in villages.
8. Although the site is located between the existing house and the commercial property to its south, I do not consider the group of buildings within which the site sits is large enough to be considered a village. Therefore the development could not constitute infill development within a village.
9. A further exception listed in paragraph 89 of the Framework is limited infilling or the partial or complete redevelopment of previously developed sites 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.
10. Although scale is a reserved matter, the provision of two dwellings in a rear garden which is currently undeveloped apart from a small garden store, would inevitably have a greater impact on the spatial openness of the site, particularly if the scale of the houses would be similar to that indicated in the proposed site plan drawing.
11. The current boundary hedge does limit the visual openness of the site when viewed from Old Budbrooke Road. However, the introduction of a vehicular access, which would require the removal of some trees and a section of hedging, would allow views into the site and, though siting is a reserved matter, most likely the built development within. In addition, although the height of the dwellings would be addressed in a reserved matter, the appellant suggests the houses would be two-storey and in that case the buildings would be visible above the front boundary hedge as well as through the vehicular access. Accordingly the development would most likely be visible from outside the site would therefore have a greater impact on the visual openness of the Green Belt than the existing site.
12. Additionally though the proposal would not conflict with most of the purposes of the Green Belt as identified in paragraph 80 of the Framework, it would not

align with the aim of assisting urban regeneration as the proposal, on a site which appears to be actively used and not in an urban area, would not encourage the recycling of derelict or urban land. The appellant has suggested there is little derelict urban land within Warwick, and whilst the draft Warwick District Local Plan recognises this, it does not alter my view that the proposal would not assist urban regeneration.

13. The appellant considers the site would be previously developed land and has provided case law¹ to support their argument. However notwithstanding this, the development of two houses on the site would have a greater impact both spatially and visually on the openness of the Green Belt and on one of the purposes of including land within the Green Belt.
14. Consequently, the proposal would be inappropriate development. Paragraph 87 of the Framework says inappropriate development is, by definition, harmful to the Green Belt and shall not be approved except in very special circumstances. It is therefore necessary for me to balance any other considerations against that harm.

Other considerations

15. The proposal would have reasonable access to goods and services, being close to Warwick Parkway station and a bus stop. It is also a reasonably short walk into Warwick town centre. However the pedestrian route across the A46 is not appealing as there are no signalised pedestrian crossing points across the roundabout junction. As such I give this matter neutral weight.
16. The appellant has referred to an appeal² which related to a scheme which included the provision of 1,500 homes in the Green Belt. I recognise that there are some similarities between that case and the appeal before me in that both Councils cannot demonstrate a 5 year supply of housing. However not only would that scheme provide a significantly greater contribution to that Council's housing target than the minimal contribution provided by the scheme before me, but also that decision reflects the advice in the Planning Practise Guidance which is that that unmet demand for housing is, alone, unlikely to outweigh the harm to the Green Belt. In that appeal the other benefits of the scheme, such as the economic and strategic planning benefits, combined to outweigh the harm to the Green Belt. Those other benefits are not shared with this current appeal. I therefore give little weight to this consideration or the limited provision the scheme makes to the Council's housing provision.
17. Though I recognise the appellant's permitted development rights to erect buildings within their garden ancillary to the use of their house, I have no evidence that any such development is proposed or its size. As such I can give minimal weight to this matter.
18. I can also give little weight to the design of the development or its effect on trees, bio-diversity, flood risk and the living conditions of the neighbouring residents as these aspects would be assessed at the reserved matters stage.

¹ Dartford Borough Council v Secretary of State for Communities and Local Government [2016] EWHC 635 (Admin)

² APP/G1630/V/14/2229497

Planning Balance and Overall Conclusion

19. The Framework advises that the Government attaches great importance to Green Belts and that substantial weight should be given to any harm to the Green Belt. I consider that the development would cause harm to the Green Belt by way of its inappropriateness. Balanced against that are the other considerations identified above. For the reasons given, I conclude that they do not clearly outweigh the harm to the Green Belt and therefore there are no very special circumstances to justify the proposal.
20. Accordingly the Framework suggests the proposal should be restricted. As such the development fails to accord with the second part of the fourth bullet point of paragraph 14 of the Framework and hence the proposal does not constitute sustainable development.
21. Consequently, the development would conflict with Policy RAP1 of the Local Plan and the Framework which aim to protect the Green Belt from inappropriate development.
22. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR