

Appeal Decision

Site visit made on 4 January 2017

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 10 February 2017

Appeal Ref: APP/P1805/W/16/3156974

**Units 1 and 2, Long Acre Field, Brickhouse Lane, Stoke Prior,
Worcestershire B60 4LY**

- 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 Richard Swinson against the decision of Bromsgrove District Council.
 - The application ref: 16/0097, dated 4 February 2016, was refused by notice dated 1 April 2016.
 - The development proposed is demolition of two existing industrial units and construction of one new dwelling.
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Decision

1. *The appeal is allowed and planning permission is granted* for the demolition of two existing industrial units and construction of one new dwelling at Units 1 and 2, Long Acre Field, Brickhouse Lane, Stoke Prior, Worcestershire B60 4LY, in accordance with the terms of the application, ref: 16/0097, dated 4 February 2016, *subject to the conditions listed at the end of this decision.*

Preliminary Matters

2. Although not mentioned in the development description it is apparent from the plans and other details that the proposals considered by the Council include a detached garage building. I have determined the appeal on that basis. In addition a revised site plan (drawing no. 14-47-15A), indicating a reduced curtilage area for the proposed residential property, was submitted to the Council during the application process. I have therefore determined the appeal on the basis of the proposed site layout on this revised plan.
 3. Since my site visit the Council has advised in writing firstly that the Bromsgrove District Plan 2011-2030 (DP) was adopted on 25 January 2017. Secondly there have been no changes to the numbering of Policies BDP4 and BDP20 and only minor changes to the wording of the pre-adoption versions supplied by the Council with the appeal Questionnaire. I have therefore determined the appeal on the basis that these two BDP policies have superseded saved Policies DS2 and S39 of the Bromsgrove District Local Plan 2004 (which were the policies cited on the refusal notice).
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Reasons

4. As the appeal site is in the West Midlands Green Belt the **first main issue** is whether or not the proposals would be inappropriate development in the Green Belt, for the purposes of development plan policy and the *National Planning Policy Framework*. The **second main issue** is the effect of the proposals on the setting of nearby listed buildings. If the appeal proposals are found to be inappropriate development in the Green Belt then the **third main issue** is whether the harm arising from inappropriate development and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify the development.

Whether or not inappropriate development

5. The appeal site is a long and relatively narrow wedge of land, increasing in width from east to west. Its southern boundary adjoins the appellant's property and associated land known as 'The Priory'. Two substantial timber-clad buildings (Units 1 and 2) currently sit on the eastern section of the appeal site, accessed from Brickhouse Lane and said to have been erected originally as poultry sheds in the 1950s. At the wider western end are the remnants of a few polytunnels and other structures, currently disused and overgrown.
6. In 2006 the Council granted a Lawful Development Certificate (LDC) for use of one of the existing units for refurbishment of boat engines, warehousing and storage facilities and use of the other as a soft furnishings workshop and warehouse. More recently it appears they have been used only for storage and grants of prior approval for each existing unit, in January 2016, allow each to be converted to a dwelling.
7. Given that history, and having regard to DP Policy BDP4 and to paragraph 89 of the *National Planning Policy Framework*, the first matter to consider is whether the appeal proposals would constitute partial or complete redevelopment of previously developed land. If so, the second matter is whether such redevelopment would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
8. *Redevelopment of previously developed land*: In the light of the 2006 LDC the Council acknowledges the existing buildings constitute previously developed land but it considers that only the buildings, and none of the surrounding land, are previously developed. However, the definition of previously developed land in the *Framework*¹ is "land which is or was occupied by a permanent structure, *including the curtilage of the developed land* (although it should not be assumed that the whole of the curtilage should be developed)" (my emphasis).
9. I appreciate the situation in this case is not straightforward, as there is nothing of substance to indicate the western end of the overall site has been used other than for agricultural purposes², and the site is not subdivided by any obvious features such as fencing or hedging. Even so, notwithstanding the LDC and due to the distance from the narrow rural lane, it is extremely unlikely that the two existing units could be used for the purposes specified in the LDC without adjacent land being used for purposes such as vehicular access, turning and parking.

¹ In the Glossary at Annex 2

² And land that is or has been occupied by agricultural buildings is specifically excluded from the definition of previously developed land in the *Framework*

10. Moreover the proposals for which prior approval has been granted (pursuant to permitted development rights) are described on the decision notice in each case as "Proposed change of use from storage or distribution buildings (Class B8) *and any land within its curtilage* to a dwelling house (C3)" (my emphasis). The approved 'location map' in each case identifies the building footprint and an outdoor area of equivalent size. For Unit 2 that extends westwards from two pairs of doors in its west elevation, at least as far if not further than the extent of the 'garden curtilage' now proposed. Whilst these plans may not represent actual historic curtilages, I find them to be reasonable indicators of the size of curtilage that would be appropriate for the existing units.
11. Having regard also to the nature and shape of the site and the alignment proposed for the garden curtilage on the revised site plan, I find it reasonable to treat the area within that curtilage as previously developed land. That being the case, it is necessary to consider the effect of the proposals on the openness of the Green Belt and on the purposes of including land within it.
12. *Openness*: It is common ground that the combined floorspace of the proposed single storey dwelling and detached garage would be no larger than that of the two existing units, with no increase in height. Moreover the appellant's calculation that the proposals would result in a reduction of some 153m³ in building volume is not disputed by the Council. Thus in terms of the total amount of built form there would be an improvement in openness. The proposed dwelling would differ from existing Unit 2 in terms of shape and it would sit slightly further to the north. Even so the low-key development as a whole would, like the existing units, be seen in most views against the backdrop of the substantial boundary hedging to the south. Thus the impact of the new buildings on the Green Belt's openness would be no greater than that of the existing development.
13. With regard to the proposed residential curtilage, the shape of the site and the positions of the proposed buildings are such that the outdoor space would be fragmented into several areas of varying sizes, rather than one 'large' garden. Significantly, permitted development rights for extensions and for other development within the curtilage could be restricted by condition. An appropriate boundary treatment around it, whether hedging or a style of fencing in keeping with the rural location, could also be required by condition. Subject to those provisos I find no compelling grounds to conclude, in the particular circumstances of this case, that the proposed residential curtilage would have a greater impact on the Green Belt's openness than continuing use of the existing units for storage.
14. *The purpose of including land in the Green Belt*: There is no dispute that the appeal proposals would not conflict with the second and fourth purposes set out in *Framework* paragraph 80³. As there is no 'large built-up area' in the vicinity there would be no conflict with the first purpose of checking the unrestricted sprawl of such areas. Nor, given the nature and small scale of the proposed development, would it conflict to any material degree with the fifth purpose of encouraging urban regeneration.
15. The remaining (third) purpose is to assist in safeguarding the countryside from encroachment. In this respect I note the Council's concerns but my findings

³ That is, preventing neighbouring towns from merging and preserving the setting and special character of historic towns

are very similar to those relating to openness. The existing low-key buildings are broadly agricultural in character but due to their long, low form and proposed materials the dwelling and garage would be equally low key. In this particular site context the dwelling's position, slightly further north of Unit 2 but within the overall site boundary, would have little impact on the wider countryside. Given also the scope to restrict permitted development rights and require boundary treatment, any urbanising impact arising from the creation of a residential curtilage is unlikely to be significant. I have also borne in mind that the lawful uses of the existing units could involve at least as much outdoor activity and vehicle movements as a single dwelling, and possibly more.

16. *Conclusion on inappropriate development:* Taking account of all relevant matters in this particular case I find it reasonable to conclude the appeal proposals constitute redevelopment of a previously developed site which would not have a greater impact on the Green Belt's openness or the purpose of including land within it. They would not therefore be inappropriate development in the Green Belt for the purposes of DP Policy BDP4 or the *National Planning Policy Framework*.

Setting of nearby listed buildings

17. The Grade II listed house known as The Priory and attached outbuildings on its northern side together form a substantial block of built form. The tall imposing house dates back to the 17th century but it was remodelled and extended in the 19th century, with further updating and remodelling undertaken relatively recently. It sits in extensive grounds, albeit the attached outbuildings of lower height on the northern side extend the built form towards the boundary with the appeal site, in the vicinity of the proposed development.
18. The special interest and heritage significance of The Priory appears to stem primarily from the variety of internal and external features that have resulted from its evolution over time. Its form and features also reflect the building's history and how it has been occupied, notably in Victorian times. The extensive grounds, which complement the building and are appropriate to its grand scale, form its immediate setting.
19. The appeal site is outside that immediate setting, separated from it by a strong tree and hedge line which includes substantial proportions of copper beech and evergreen species. The hedge line creates clear physical and visual separation, such that there is little if any sense of the appeal site as an element of The Priory's setting, even though the two existing units on it reflect the area's broadly agricultural character. Moreover there is little of substance to indicate any historic or functional link between The Priory and the appeal site.
20. Although taller parts of the listed buildings can be seen from the appeal site, very little of the existing low key buildings on the appeal site is apparent from within the grounds of the listed buildings. Given that the proposed buildings would also be of low-key appearance and no taller than the existing ones, I find they would not harm the special interest or significance of the listed buildings or their setting, all of which would be preserved. Nor would they harm the setting of the more distant Grade II listed Moors Farmhouse to the west. I therefore conclude that, in relation to designated heritage assets, there would be no conflict with DP Policy BDP20 or with the Framework.

Other matters, conclusions and conditions

21. As I have concluded the proposals would not be inappropriate development in the Green Belt there is no need to address the third issue of whether there are other considerations sufficient to amount to very special circumstances. I have had regard to all other matters raised but I have found nothing sufficient to alter or outweigh my conclusions on the first two main issues. I note however that the fallback position stemming from the extant grants of prior approval, which would result in two new dwellings, residential curtilages and associated activity, is a factor which weighs in favour of the proposals. Overall therefore I conclude the proposals would not conflict with the development plan or with the *Framework*. It follows that the appeal should succeed and planning permission should be granted subject to conditions.
22. A condition specifying the approved plans is needed for the avoidance of doubt and in the interests of proper planning. Given the previous uses of the site it is reasonable and necessary to require some investigation for contamination and, should they be required, remedial measures. However simpler conditions than those suggested by the Council would be adequate for this small development. Details of materials and landscaping are needed in the interests of visual amenity, with the latter tailored to these particular proposals and site context. Mainly for the same reason (rather than highway concerns) a condition requiring provision and retention of the garage parking spaces is appropriate, rather than a requirement to provide three parking spaces.
23. Finally it follows from the previous reasoning that a condition restricting permitted development rights is justified, in the interests of visual amenity and also to maintain the openness of the Green Belt. The conditions which follow take account of those suggested by the Council and the points made in paragraph 21 above.
24. *Planning permission is therefore granted subject to the following conditions:*
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. 14-47-11 to 14-47-14 inclusive; 14-47-15A; 14-47-17 to 14-47-19 inclusive.
 - 3) No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. The assessment shall be carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced).
 - 4) If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale. A verification report shall be submitted to and approved in writing by the local planning authority before the development hereby permitted is occupied. If, during the course of development, any contamination is

found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority.

- 5) No development shall take place until details of the form, colour and finish of external wall and roof materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include: details for the protection of trees and hedging along the southern site boundary during the construction period; details of boundary treatment for the proposed garden curtilage, along the alignment indicated on the approved site plan (drawing no. 14-47-15A); details of hard and soft landscaping; an implementation programme. The scheme shall be implemented as approved.

Any trees, shrubs or hedges which within a period of 5 years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise approved in writing by the local planning authority.

- 7) The development hereby permitted shall not be occupied until the parking facilities in the garage building hereby permitted have been provided and made available for use. Those facilities shall be kept available for parking purposes at all times thereafter.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Classes A-E of Schedule 2, Part 1 of the Order shall be carried out.

Jane Miles

INSPECTOR