
Appeal Decision

Site visit made on 25 April 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 12 May 2017

Appeal Ref: APP/J3720/W/17/3167266

Land adjacent to The Field House, Forshaw Heath Road, Forshaw Heath, Earlswood B94 5JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Guy Povey against Stratford-on-Avon District Council.
 - The application Ref 16/03181/OUT, is dated 27 September 2016.
 - The development proposed is to place one detached bungalow dwelling on vacant land adj. to Field House.
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Decision

1. The appeal is dismissed and planning permission to place one detached bungalow dwelling on vacant land adjacent to Field House is refused.

Procedural Matters

2. The Council has provided documentation advising that had it been in a position to determine the application, it would have refused planning permission for reasons relating to the effect of the proposal on the Green Belt and its countryside location. The appellant has had the opportunity to comment on that documentation during the course of the appeal.
3. The proposal is in outline only with all matters reserved except access and I have considered the appeal on that basis.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - Whether the development would be in a suitable location, given the Council's development strategy, and its effect on the countryside; and,
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.
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Reasons

Inappropriate or not inappropriate development

5. The appeal site is located northwest of the village of Earlswood. It is adjacent to The Field House to the east and the proposed dwelling would share its access off Foreshaw Heath Road. There is a large dwelling, Grove House, further to the east and Earlswood Garden Centre occupies a large site on the opposite side of the road with a railway station nearby. There are some further dwellings to the west of the site but the area retains a predominantly rural character with paddocks and open fields. The site is located within the West Midlands Green Belt.
6. The parties advise that the appeal relates to an amended re-submission of an application for outline permission for a dwelling on the site, which was refused and subsequently dismissed on appeal as recently as August 2016.¹ The Council advises that the new proposal is largely the same but that the extent of the site has altered slightly, some further details are provided within the Design and Access Statement and access is included for consideration.
7. The appellant suggests that the new proposal is for a low impact single-storey dwelling rather than a two-storey dwelling and that there would be additional planting. However, as the previous application was in outline with all matters reserved, those aspects, even if indicative drawings were provided, would not have been settled then and would not be now. Therefore, the proposal has not changed significantly since the previous application and failed appeal.
8. Paragraph 89 of the National Planning Policy Framework (the Framework)² advises that the construction of a new building is regarded as inappropriate within the Green Belt, unless it meets one or more of a list of specified exceptions. Policy CS.10 of the Stratford-on-Avon District Core Strategy 2011 to 2031 (CS)³ includes similar exceptions which are regarded as not inappropriate.
9. The proposal would not be limited infilling, referred to in exceptions 'c' and 'e' of Policy CS.10 and the equivalent fifth and sixth bullet points of paragraph 89 of the Framework. Though the CS and the Framework do not define it, 'infilling' normally refers to the filling of a small gap between existing houses or built forms. That is not the case in this proposal as the appeal site is adjoined to the west by an access lane to a property to the rear, Broadmead Barns, and then a sizeable paddock before the next built form fronting the road, being the dwelling at Broadmead. There is rough grassland to the immediate rear of the site. Furthermore, though there is sporadic development in the area, the site is not within a village.
10. Another exception relates to the partial or complete redevelopment of a previously developed site. The Council advises that the previous planning application and appeal, referred to above, considered the site to be a paddock and referred to a change of use from agricultural to residential. The Design and Access Statement (DAS) associated with the current appeal refers to it as within the garden curtilage and grounds of The Field House. Given that the previous appeal was relatively recent and the Council advise that there is no

¹ APP/J3720/W/16/3149185

² Published 2012

³ Adopted 11 July 2016

Lawful Development Certificate for a change of use, I consider that the site cannot be categorised as a previously developed or brownfield site.

11. Even if it were, the relevant exceptions, in Policy CS.10 and paragraph 89 of the Framework, require that limited infilling or the partial or complete redevelopment of a previously developed site must not have a materially greater impact on the openness of the Green Belt than the existing development. Placing a building on a site currently without buildings would have an adverse effect on openness.
12. Given that the proposal does not meet any of the relevant exceptions it would be inappropriate development in the Green Belt.

Openness and Green Belt purposes

13. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open. Additional bulk and physical presence may affect openness which can also have a visual element.
14. The appeal site is largely screened from the road by vegetation, apart from at the entrance, and some additional planting is suggested in the DAS. However, as I have found above, the erection of a dwelling, albeit a bungalow, and its associated domestic paraphernalia, such as clothes drying areas and garden furniture, would inevitably lead to a material loss of openness.
15. Though there is other residential and some commercial development in the area, I have already characterised it as predominantly rural with its abundance of open fields. Therefore, I conclude that the significant loss of openness would have an adverse effect on the Green Belt and constitute encroachment into the countryside, contravening one of the five purposes of the Green Belt, set out in paragraph 80 of the Framework.

Suitability of location

16. The development strategy for the District is set out in Policy CS.15 of the CS. It focusses development on Stratford-upon-Avon and other sites including Main Rural Centres, New Settlements and Local Service Villages (LSVs). Earlswood is identified in the 'Explanation' of Policy CS.15 as a Category 3 LSV. The policy advises that development in LSVs will take place on sites identified in a Neighbourhood Plan and through small-scale schemes on unidentified but suitable sites within their built-up area boundaries (where defined) or otherwise within their physical boundaries.
17. There is no adopted Neighbourhood Development Plan for the area and it has already been established that, though there is some scattered residential and other development, the appeal site is away from the village of Earlswood and has a rural character, as confirmed in the previous appeal decision. Therefore, in planning terms, it is regarded as in the countryside. Policy AS.10 of the CS relates to development in the countryside and villages. It allows for certain forms of residential development in the countryside, at (b) to (j), such as conversions of redundant or disused buildings.
18. Policy AS.10 (j), referred to in the Council Officer's report, allows for a new single dwelling in open countryside which is of exceptional quality and design and which makes a positive contribution to the character of the local area. Given that the application is in outline only, with all matters reserved except

access, it is not possible to make a full assessment of the quality and design aspects. Whilst the DAS refers to various environmentally positive design features, such as solar panels and rainwater harvesting, I do not consider those elements sufficient to meet the criterion of exceptional quality and design.

19. I recognise that the appeal site is near a railway station and that there are bus stops and villages, such as Wythall, in the vicinity with services and facilities. However, Foreshaw Heath Road is described by the appellant as a busy commuter route whilst Earlswood Garden Centre also generates traffic. That is in accord with what I saw on my site visit where I noted that, apart from towards the railway station, footways are very limited, which would not encourage pedestrian use. The site is outside any village and the proposal does not meet any of the special circumstances in Policy AS.10 or indeed in paragraph 55 of the Framework, which are designed to focus development on suitable locations and safeguard the countryside.
20. The above factors lead me to conclude that the proposed development would be in an unsuitable location, contrary to a development strategy intended to protect the countryside. I give moderate weight to the adverse effect.

Other considerations

21. Though the proposal is in outline only, the appellant indicates that the house would be a low impact single storey dwelling with additional landscaping. Furthermore, the building would incorporate the latest energy-saving technologies and be positioned to maximise solar gain with other environmentally beneficial features. I give these positive factors some weight.
22. The proposal would have economic and social benefits. There would be economic uplift during construction and from future occupiers. It would contribute to the supply of housing and future occupiers would support the viability of local services. However, whilst all such contributions are positive they would be limited, as the development would consist of just one dwelling. In environmental terms, there would be some harm to the countryside by the construction of a dwelling on a former paddock area.
23. The appellant suggests that there is '*a shortfall of sites for housing development in the area under the 5 year housing supply requirements.*' However, no evidence has been presented to support that assertion. The Council, on the other hand, say that the dwelling would '*contribute towards maintaining the Council's Five Year Housing Land Supply*', which implies that the Council believes that it can demonstrate a five-year supply. No conclusive evidence has been presented about the current position and I will return to the issue in my conclusions.

Other Matters

24. The Council received a number of letters of support for the proposal including from a local Councillor, though the Parish Council, the Campaign for the Protection of Rural England (CPRE) and some local residents objected. I have already dealt with the main planning issues above.
25. A further matter referred to is an alleged lack of new dwellings or family-sized dwellings in the area, which I will deal with in my conclusions below.

Conclusions

26. The Framework indicates, at paragraph 87, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
27. I have already found that the proposal would be inappropriate development. I have also identified significant harm to the openness of the Green Belt. Furthermore, the proposal would be in an unsuitable location conflicting with the Council's development strategy, which is in part designed to protect the countryside.
28. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that '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.
29. I give limited weight to the other considerations discussed above. Therefore, overall, I find that the other considerations do not clearly outweigh the harm to the Green Belt and moderate harm to the countryside that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. That conclusion is also consistent with the previous appeal decision in relation to a similar proposal on the site.
30. In reaching these conclusions, as housing need and the five year housing land supply (HLS) have been raised, I have taken into account the Government's Planning Practice Guidance which advises that: *'Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt.'*⁴
31. If there were a shortfall in the five year HLS, it would trigger paragraph 14 of the Framework. However, paragraph 14 indicates that, if policies are considered out-of-date, permission should be granted unless there are specific policies in the Framework (such as land designated as Green Belt), which indicate that development should be restricted. Given that there are no very special circumstances; Green Belt policy provides that to be the case here. Furthermore, Policies CS.10, CS.15 and AS.10, in the fairly recently adopted development plan, would have been examined for consistency with the Framework, and I consider that they still attract significant weight. Therefore, the proposal is contrary to the CS and material considerations do not indicate that it should be determined other than in accordance with the development plan.
32. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR

⁴ PPG ref ID 3-034-20141006