

Appeal Decision

Site visit made on 12 June 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 23 June 2017

Appeal Ref: APP/W4325/W/17/3173334

The Paddock, Sandy Lane North, Irby, Wirral, Merseyside CH61 4XX

- 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 Phil Hopkins against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/16/00456, dated 1 April 2016, was refused by notice dated 3 October 2016.
 - The development proposed is to build a new two bedroom bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
 - The effect on the openness of the Green Belt and the purposes of including land within it;
 - The effect on the character and appearance of the area;
 - The effect on biodiversity, and;
 - If the proposal is 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 the development.

Reasons

Whether the proposal is inappropriate development in the Green Belt

3. Policy GB2 of the Unitary Development Plan for Wirral (UDP), adopted February 2000, states that within the Green Belt there is a general presumption against inappropriate development and such development will not be approved except in very special circumstances. Such an approach aligns with the Framework. However the categories of development identified in Policy GB2 as not inappropriate development, precede the publication of the Framework and are not up to date.
 4. Paragraph 89 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain
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exceptions. New buildings within the Green Belt are inappropriate unless, amongst other things, they comprise limited infilling in villages, or 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.

5. The appeal site is within the Green Belt with the evidence before me indicating that the designation was made in 1983. The site is accessed from an existing bridleway / unmade road known as Sandy Lane North. The land consists of a roughly rectangular shaped plot that has a gradual downward slope from Sandy Lane North towards Hill Bark Road and is currently used as a paddock for grazing horses with an existing timber stable block and a number of trees at varying stages of maturity. A steep downward slope lies beyond the western boundary of the site which leads to a former quarry that now comprises a mix of woodland, scrub and a pond.
6. The site is surrounded by a number of bungalow style properties to the north, east and south of the site. However, the site lies well beyond the built up envelope of Irby village with the pattern of development in the wider setting being more scattered. There is no village core or associated services and functions in the immediate vicinity of the appeal site, other than a public house. Consequently, in the absence of a defined village centre or built up envelope surrounding it, I consider that the site lies within a countryside setting of woodlands, open fields and agricultural land rather than forming part of a village. I therefore do not consider the development to be limited infilling in a village as described in the Framework.
7. The Framework defines previously developed land as 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) and any associated fixed surface infrastructure. The definition excludes, amongst other things, land that was previously developed but where the remains of the permanent or fixed surface structure have blended into the landscape in the process of time.
8. Based on the evidence before me, the site was previously occupied by a dwelling which was demolished many years ago. At the time of my visit, it was evident that any remains of a dwelling have now blended into the landscape, despite a water connection within the site remaining partly visible. The land is also clearly outside of the enclosed residential curtilage of Woodcote with an independent access from Sandy Lane North. I, therefore, do not consider that the site comprises private residential garden. In such circumstances, I do not consider that the site comprises previously developed land as defined by the Framework. In reaching that view, I have also taken into account that the proposed siting of the dwelling would not share the same footprint as the existing stable block which would be retained.
9. I conclude that the proposal would comprise inappropriate development in the Green Belt as it would not represent limited infilling in a village or, limited infilling or the partial or complete redevelopment of a previously developed site. The proposal would therefore conflict with Policy GB2 of the UDP in so far as it includes a general presumption against inappropriate development, and would also conflict with the Framework in that respect.

Openness and Green Belt purposes

10. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to prevent urban sprawl by keeping land permanently open, with openness identified as one of the essential characteristics of the Green Belt. The construction of a dwelling on the site would result in built development where there is presently none. The erection of a bungalow with reclaimed brickwork and slate, together with stone detailing, would not look out of place within a local setting of similar dwellings and some variety of materials. Nevertheless, the footprint of a dwelling and its resultant bulk, scale and massing, together with an access and other accompanying domestic paraphernalia, would inevitably lead to a loss of openness. This harmful effect would be particularly evident through the post and rail fence enclosing the site frontage onto Sandy Lane North, as the part of the site where the dwelling would be located is currently free from buildings and remains relatively open despite the presence elsewhere of trees and the stable block.
11. The existing trees nearby would filter some views of the dwelling from distance. However, the very presence of additional built form would have a significant negative impact that would erode the contribution that the site makes to the rural setting in providing a visual buffer to dwellings surrounding the site. As I have found that the site lies in open countryside rather than being part of a village, the proposal would, therefore, lead to a detrimental encroachment of development into the countryside in conflict with the related purpose of the Green Belt set out in paragraph 80 of the Framework.
12. I conclude that the development would lead to a significant loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment. The proposal would, therefore, conflict with Policy GB2 of the UDP and paragraphs 79 and 80 of the Framework.

Character and appearance

13. The design of the dwelling would respect the diverse style of property types evident in the local area, whilst appropriate materials and suitable landscaping are capable of being secured by condition. However, the siting of the dwelling would include a much larger footprint of built development within the site closer to Sandy Lane North than the existing stables to be retained. The development would be viewed prominently from Sandy Lane North due to largely open views into the site from that perspective and the reducing land levels towards Hill Bark Road where houses are visible. The potential for additional landscaping would not mitigate the resultant change of the site to a more urbanised character and appearance, including the introduction of a driveway, parking area and other domestic paraphernalia within the site.
14. Consequently, the proposal would erode the contribution that the existing site makes as part of the transition from surrounding dwellings to the spacious and verdant setting of the countryside to the west. The presence of nearby dwellings to the side and opposite on Sandy Lane North and facing Hill Bark Road does not justify the harm to the rural character and appearance of the site in that respect, given the visual separation to those properties.
15. Additional concerns were raised by third parties in terms of the previous removal of trees within the site. However, there is no substantive evidence before me that such works were undertaken after the planning application was

submitted or that the trees removed were subject to any protected status. In such circumstances, any tree removal which may have taken place within the site is not an influential factor on the outcome of this appeal.

16. I conclude that the development would have an adverse effect on the character and appearance of the area. The proposal would, therefore, conflict with Policy GB2 of the UDP in so far as it seeks that development shall not damage the visual amenities of the Green Belt by virtue of its siting, materials or design. The policy is consistent with the Framework to which there is also conflict in that respect.

Biodiversity

17. Policy NC5 of the UDP seeks to protect habitats of special local importance for nature conservation, with associated criteria for evaluating proposals. Moreover, development affecting such habitats will only be permitted where the local planning authority is satisfied that the continued ecological viability of the habitat or wildlife interest of the site can be adequately safeguarded by means of appropriate conditions and/or legal agreements. Policy NC7 of the UDP offers additional protection for wildlife species protected by law.
18. The site is in close proximity to a Local Wildlife Site (formerly known as a Site of Biological Importance) which comprises a mix of woodland, grassland and wetland habitats and species. The close proximity to a nearby pond, former quarry and trees within the site offers potential habitats for protected species such as great crested newts and bats which necessitates that an ecological survey of the site be undertaken.
19. An ecological survey was not provided with the application and although a preliminary ecological statement has been submitted with the appeal, the surveys to support a full ecological report are yet to be completed. Without such information, there is no substantiated evidence which would enable me to determine whether there are specific species present within the site which may or may not be protected by law. Consequently, it is not possible for me to conclude that the development would not significantly harm any protected species or any associated habitat within the appeal site, or whether any such harm would be adequately mitigated or as a last resort, compensated for by the suggestions within the preliminary ecological statement. In such circumstances, a precautionary approach is necessary and planning permission should be refused in accordance with the Framework.
20. I recognise that the Council did not request this information in a manner that would have enabled the surveys to take place before the decision was made. However, this appeal is necessarily determined on the merits of the proposal before me and the evidence submitted as part of the appeal. Although the surveys are due to take place imminently, given the precautionary approach to be taken in terms of protected species, it is not information that could reasonably be secured by condition and should be submitted and considered before a decision is made. In the particular circumstances of this case, it would not be reasonable to delay determination of the appeal to await the information given the uncertain timescales involved and conclusions on other main issues.
21. I conclude that there is insufficient information to demonstrate that the proposal would not harm biodiversity. The development, therefore, conflicts with Policies NC5 and NC7 of the UDP and the Framework.

Other considerations

22. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be significant harm to openness and the Green Belt purpose of safeguarding the countryside from encroachment. I have also identified harm relating to the character and appearance of the area and potential harm to biodiversity, including protected species. 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.
23. The dwelling is identified as an eco-dwelling, which would contribute to housing supply and is indicated as to be built for an elderly parent. However, the benefits arising from a single eco-dwelling in those respects can be given only limited weight based on the scale of development proposed. Furthermore, personal circumstances and unmet need alone seldom clearly outweigh harm to the Green Belt and any other harm when taking account of the Government's Ministerial Statement of 31 August 2015¹ and Planning Practice Guidance². This is because similar personal circumstances could be repeated in many Green Belt situations across the country.
24. The absence of harm with respect to highway safety, given the presence of an existing access onto Sandy Lane North, and the living conditions of occupiers of neighbouring properties, due to the limited bulk and massing of a bungalow and intervening separation distances and boundary treatments, are neutral factors which do not weigh in favour of the development.
25. The appellant has referred to other developments in the surrounding area having previously been granted planning permission in the Green Belt. However, no specific details with respect to the circumstances which led to existing dwellings being developed have been provided, other than the ongoing development at Hillside which is a replacement dwelling and, therefore, not comparable with the new development before me. I have, therefore, necessarily considered the appeal proposal on its own merits.
26. I give moderate weight to the limited contribution that the proposal would make to rural housing, including as an eco-dwelling, and the associated support for the viability of local services. Moderate weight is also given to the personal circumstances of providing a home for an elderly parent close by. However, the other considerations in this case do not clearly outweigh the substantial weight to be given to the totality of harm to the Green Belt and other harm arising from the proposed development. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal conflicts with the UDP and the Framework when taken as a whole.

Conclusion

27. For the reasons given above, the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR

¹ Letter about Green Belt protection and intentional unauthorised development - 31 August 2015

² Paragraph: 034 Reference ID: 3-034-20141006, Revision date - 6 October 2014