The Planning Inspectorate

Appeal Decision

Site visit made on 28 June 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 10th July 2017

Appeal Ref: APP/E3715/W/17/3170907
Land at Smeaton Lane, Combe Fields, Stretton Under Fosse CV23 0PS

- 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 Raymond Barrett against the decision of Rugby Borough Council.
- The application Ref R16/2074, dated 17 September 2016, was refused by notice dated 2 December 2016.
- The development proposed is the erection of a detached dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. There are five main issues. These are:

    - The principle of the proposed development with specific regard to its location;
    - Whether or not the proposed development would be inappropriate development in the Green Belt;
    - The effect of the proposed development on the openness of the Green Belt;
    - If the proposed development 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 the proposed development; and
    - Whether or not the proposed development would give rise to harm to protected species, specifically bats.

Reasons

Principle of Development

3. The appeal site is a narrow parcel of land to the south side of Smeaton Lane. It is largely hidden from view by mature overhanging trees. It is located in a run of informally sited detached dwellings where built development generally is low density. There are no buildings on the site save for a timber clad box like structure. The appeal site is outside of any defined settlement and the

surrounding area is distinctly rural. By definition in planning terms as well as in character terms, the appeal site is in the countryside.

4. Whilst the appeal site is not isolated in the sense that it is located in amongst a group of other dwellings, it is isolated from services on which future occupiers would rely for day to day living. This would bring the proposed development into conflict with section 6 of the Framework[1], paragraph 55 specifically.

5. By the appellant's own admission, the closest settlement is over one mile away (Stretton under Fosse) where services are limited. The closest broader range of services is located over two miles away (Brinklow). The site is connected to these settlements via a narrow, unlit, single width road with no footway. Bus services are locally available but do not pass the appeal site. I have not been advised of an available or practical public rights of way network.

6. Journeys to and from the site would likely therefore rely heavily, perhaps solely, on the use of the private car. This is the least sustainable travel option. I accept journeys would be short and limited given the scale of the proposed development but this is, in my view, an argument that could be repeated too often to justify small scale scattered new development in the countryside which would be fundamentally contrary to one of the key principles of the Framework.

7. It is for this reason that I have concerns over the principle of the proposed development which, should planning permission be granted, would serve to promote unsustainable patterns thereof. The proposals would therefore be contrary to Policy CS1 of the Core Strategy[2] and the Framework. Together, and amongst other things, these policy positions seek to restrict new development in the countryside and direct it to those areas that have essential services that can be accessed via sustainable means.

Inappropriate Development in the Green Belt

8. The Framework states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt[3]. There are exceptions to this. Specifically, in respect of this appeal, limited infilling in villages.

9. As I have alluded to above, the appeal site is a gap in an otherwise built up (if sparsely so) frontage. The development of the site could therefore be legitimately argued as infilling. However, the Framework is explicit that this allowance applies to sites being in villages. Taking into account my findings above, there is nothing about the site or its immediate surroundings that would support an argument to suggest it is within a village.

10. I can therefore make no conclusion other than that the erection of a dwelling on the site would be inappropriate development in the Green Belt. As per paragraph 87 of the Framework, this would be harmful to the Green Belt by definition.

[1] The National Planning Policy Framework 2012
[2] Rugby Borough Council Local Development Framework Core Strategy 2011
[3] Paragraph 89 of the Framework

The Openness of the Green Belt

11. Openness is an essential characteristic of the Green Belt. Not solely limited to visual matters, it also has a spatial aspect which can be taken to mean the absence of built form.

12. The proposed development seeks outline planning permission with all matters reserved. As such, the effect of it on the openness of the Green Belt from a visual perspective would be difficult to establish. Nonetheless, it is clear that a building would be erected on an otherwise vacant site and thus, unavoidably, it would affect the spatial aspect of the openness of the Green Belt, reducing it in net terms.

13. This harm that would be caused to the openness of the Green Belt should be, with regard to paragraph 88 of the Framework, afforded substantial weight. Harm that would be in addition to that caused by the inappropriateness of the proposed development.

Other Considerations

14. The Framework is explicitly clear that harmful development in the Green Belt should not be approved except in very special circumstances. 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.

15. Notwithstanding my findings on the inappropriateness of the proposed development, I do not agree with the appellant that the infill nature of it would constitute a very special circumstance. Infilling (if in villages as I have stated) is merely an exception to the rule of new buildings not being inappropriate. No further matters have been advanced. Thus there are no other factors to weigh against the harm that would be caused by virtue of both the inappropriateness of the proposals and the resulting reduction there would be in openness.

16. This would result in clear conflict with Policy CS1 of the Core Strategy which seeks, amongst other things, to resist new development in the Green Belt in line with national policy and section 9 of the Framework which seeks to ensure protection for the Green Belt against inappropriate and harmful development which would detrimentally affect its essential characteristics.

Protected Species

17. From the evidence provided as well as my own observations on site, there are a number of mature trees bordering and within it. These trees, according to the relevant consultees, have the capability to support habitat for bats. Bats are a protected species under the relevant legislation[4].

18. As an application for outline planning permission, it is not clear as to the scale or location of the dwelling proposed. It is equally clear however that the trees concerned form a constraint which, without knowing whether they form bat habitats, could have implications for the development of the site. It is correct that they may not of course but without survey information from a qualified specialist before me, I cannot be completely certain. It is also for this reason

[4] The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010

that the use of a condition to require a survey prior to the commencement of any development would in my opinion not be appropriate.

19. Taking a precautionary approach with regard to the treatment of protected species therefore, I cannot be satisfied that the proposed development would not be harmful. Consequently, it would not be acceptable under Policy E6 of the Core Strategy or section 11 of the Framework. The aims of these policy positions seek to ensure, amongst other things, that features of ecological importance are safeguarded.

Other Matters

20. The appellant asserts, and the Council agree, that they are unable to demonstrate the supply of housing sites as required by the Framework. This obviously has implications for the relevant policies of their development plan. In the case of the proposed development, these would be those relevant to the supply of housing. Whilst I further note that the Council's Core Strategy was adopted prior to the Framework, its relevant policies are broadly consistent with the aims of the latter.

21. Be all this as it may, the proposed development would amount to a single dwelling which would make a very limited addition to any under supply. It would add to housing mix and choice locally but its siting would be remote from essential services and thus, to some extent, socially detached, existing nearby dwellings aside. There would be some benefits to the local construction industry in the physical works at the site but given the scale of the development this would be also limited.

22. I set these benefits in the context of the environmental harm that would be caused by both the unsustainable nature of the site's location as well as the harm that would beset the Green Belt in the manner that I have described above. Indeed, Planning Practice Guidance sets out that unmet housing need is unlikely to outweigh harm to the Green Belt and any other harm to constitute very special circumstances justifying inappropriate development.

23. In effect, even taking a positive approach to the provision of a new dwelling which would add to supply, the harm to the Green Belt would remain and in its face, the erection of dwelling in the context of adding to supply would not be sufficient to outweigh it.

24. My attention has been drawn to an appeal that was allowed for the erection of a dwelling at 1 The Avenue, Chobham, Surrey GU24 8RU[5]. This site was in the Green Belt and not, in the sense of a defined boundary in the development plan, within a village. On my understanding of the Inspector's reasoning however, it seems clear to me that she considered the site to be infill development in a village (my emphasis). I accept that this may not have been in the development plan sense but she has clearly attributed weight to the siting of the site relative to the village, accessibility to it, the village itself and its immediate surroundings in character terms. In all respects, this is a fundamentally different situation to the appeal site before me. I do not therefore consider that this example has a significant enough bearing on the outcome of this appeal to the extent that it would alter my findings.

[5] Appeal reference APP/D3640/A/13/2199538

Conclusion

25. The proposed development would be unacceptable with regard to its location. It would represent inappropriate development in the Green Belt which would be harmful by definition, harm that would be exacerbated by it reducing the Green Belt's openness. A case for very special circumstances in light of this harm has not been demonstrated. Furthermore, I am not satisfied that the scheme would not be harmful to protected species. All of these harms result in clear confliction with the development plan and the Framework as I have set out.

26. The appeal therefore fails.

John Morrison

INSPECTOR