
Appeal Decision

Site visit made on 27 June 2017

by Beverley Doward BSc BTP MRTPI

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

Decision date: 20th July 2017

Appeal Ref: APP/N1025/W/17/3172210
Oakfield, Brick Kiln Lane, Morley, DE7 6DF

- 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 Sean Nicholson against the decision of Erewash Borough Council.
 - The application Ref ERE/0117/0020, dated 9 January 2017, was refused by notice dated 9 March 2017.
 - The development proposed is described as "This application is a departure from the adopted development plan. Proposed 4-4 bedroom dwellings".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above is taken from the planning application form. The appeal documentation indicates that the proposed development is for a single partially subterranean building containing four dwellings with associated garaging, car parking and access. The Council considered it on this basis and so shall I.

Main Issues

The main issues in this case are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- the effect of the proposal on the openness of the Green Belt and its purposes;
- the effect of the proposal on the character and appearance of the surrounding area;
- whether the proposal for housing development would be acceptable having regard to its location and its accessibility to services and facilities; and
- whether the harm by inappropriateness, and any other harm would be outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

3. The appeal site lies within the Green Belt. The Framework is clear that the Government attaches great importance to Green Belts. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
4. The Framework indicates, at paragraph 89, that the construction of new buildings should be regarded as inappropriate in the Green Belt unless they fall within certain specified exceptions. The proposed development would not fall within any of the specified exceptions. Accordingly, it would comprise inappropriate development in the Green Belt which the Framework indicates is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would also be contrary to saved policy GB1 of the Erewash Borough Local Plan 2005 (Local Plan) which indicates that there is a presumption against inappropriate development within the Green Belt except in very special circumstances.

Openness/purposes of the Green Belt

5. The Framework, at paragraph 79, indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It also indicates that openness and permanence are essential characteristics of the Green Belt.
6. The appeal site is an area of paddock land to the west of the dwelling known as Oakfield. Although there is a stable building and two other timber outbuildings on the site it is essentially an area of open land with no permanent buildings. The appeal proposal, despite being partially subterranean, would introduce a significant amount of built development on the site where there is currently none thereby depleting the openness of the Green Belt. This would cause moderate harm to the openness of the Green Belt.
7. Notwithstanding that the appeal site has well defined boundaries and that it is proposed that these be further reinforced by additional landscaping, the proposal would result in a more urbanised form of development on the site. This would conflict with one of the five purposes of the Green Belt set out at paragraph 80 of the Framework, namely to assist in safeguarding the countryside from encroachment.
8. Accordingly, the development would conflict with the Framework and policy 3 of the Erewash Core Strategy 2014 (Core Strategy) which indicates that when considering proposals for development within the Green Belt regard will be given to the statutory purpose of the Green Belt and to maintaining openness.

Character and appearance of the surrounding area

9. The appeal site lies on the western edge of the village of Morley within the open countryside. There are residential properties to the east of the site primarily along the frontage of Brick Kiln Lane and around its junction with Main Road. However, there are fields on the opposite side of Brick Kiln Lane and to the south and west of the site. Although the site has well defined boundaries formed by the hedgerows along its southern and western boundaries it forms part of the extensive area of countryside which extends to

the north, south and west of the site. The Derbyshire Landscape Character Assessment defines the site as being within the Gritstone Heaths and Commons Landscape Type. This indicates that culturally, this landscape has a strong association with former common land and that today, the enclosure pattern of small and medium size regular and geometric fields, associated with late parliamentary enclosure is a key characteristic.

10. The proposed building which would contain the four dwellings would measure around 67 metres in length x 12.5 metres in width x 4 metres in height and would be sited at an angle to the lane. The roof would be covered with a 'sky garden' which is intended to achieve a wildflower vista. There would also be solar panels on the roof. There would be a partially subterranean detached double garage for each dwelling also with solar panels on their roofs. To the front of each garage would be a further four car parking spaces. Consequently there would be a total of six car parking spaces per dwelling. A further four car parking spaces would be provided for visitors. A storage water pond with an overflow to the existing watercourse would be provided in the north western part of the site and two ground water pump stations would be provided adjacent to the western boundary of the site.
11. The eastern most section of the building would be set significantly closer to the lane than the adjacent dwelling and despite Brick Kiln Lane being higher than the ground level of the paddock some of that part of the building above ground level would be visible when travelling along Brick Kiln Lane from the direction of Main Road towards Quarry Road. The building would not reflect the existing linear pattern of frontage development on Brick Kiln Lane and whilst its visual impact would be reduced due to it being partially subterranean the siting of the building coupled with its overall scale would nevertheless mean that it would appear as a substantial incursion of urban development into the countryside.
12. The long glazed south facing elevation whilst not visible from Brick Kiln Lane would be visible in glimpsed views from the public footpath to the south and the illumination of the dwellings during the winter months and evenings would project light from this elevation into the currently unlit countryside. It seems to me that rather than enhancing the setting from local public footpaths this would result in an increased sense of urbanisation causing harm to the character and appearance of the area. I note the intention to retain and enhance the boundaries of the site. However, this would not serve to overcome the harm that would be caused to the character of the landscape by the incursion of built development into the countryside in this locality.
13. Having regard to all of the above therefore, the proposal would cause material harm to the character and appearance of the surrounding area. Accordingly, it would conflict with policy 10 of the Core Strategy and policies H12 and EV16 of the Local Plan which taken together seek to secure high quality design which has regard to the local context and reinforces valued local characteristics, is in scale and character with its surroundings and recognises and accords with the landscape character within which it is located. It would also fail to comply with the core planning principles of the Framework that planning should always seek to secure high quality design, take account of the character of different areas and recognise the intrinsic character and beauty of the countryside.

Location and access to services and facilities

14. Morley is a small, essentially linear settlement within the open countryside. Although there is a primary school, public house and farm shop in close proximity to the site the limited range of these services and facilities mean that the future residents of the proposed dwellings would be likely to need to travel further to meet their other day to day needs.
15. The appellant indicates that there are regular bus services to Derby City Centre and Heanor as well as a daily school bus service to Heanor Gate College from the bus stops on Main Road (A608). However, given that there is no footway on Brick Kiln Lane until it reaches its junction with the cul de sac at Primrose Drive this is likely to discourage the residents of the proposed dwellings from walking to access both the public transport services on Main Road and the other services and facilities in the village. Furthermore, it seems to me that the level of car parking proposed for each of the dwellings is such that it would be likely to encourage the occupants of those dwelling to rely on the private car to access the basic services/facilities nearby or opportunities for work further afield.
16. The Framework at paragraph 55 indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that new isolated homes in the countryside should be avoided unless there are special circumstances. The proposal may help to support the services/facilities in Morley and in nearby villages as suggested by the appellant. However, the scale of the proposed development would mean that its impact on the vibrancy and vitality of these rural communities would be likely to be minimal. Furthermore, whilst the design of the building would be unusual, being partially subterranean, and would incorporate a number of low carbon design elements I am not persuaded that these elements alone are so innovative as to render the design of the building to be considered truly outstanding or innovative. In any event I have found above that the proposal would cause material harm to the character and appearance of the area. Accordingly, it could not be considered as meeting the special circumstances set out in paragraph 55 of the Framework so as to justify an isolated home in the countryside.
17. Having regard to all of the above therefore, the proposal for housing development would not be acceptable having regard to its location and its accessibility to services and facilities. As such it would conflict with the advice at paragraph 55 of the Framework regarding housing development in rural areas and with the principle of promoting sustainable transport identified in the Framework.

Other considerations

18. I have found above that the design of the proposed building could not be considered truly outstanding or innovative. Accordingly, this matter does not attract any weight in favour of the proposal. Furthermore, whilst there is nothing in the evidence to lead me to conclude that the proposal would not provide satisfactory living conditions for future occupants of the proposed dwellings or that it would harm the living conditions of neighbours these are neutral factors which do not attract any weight in favour of the proposal.

19. The proposal would contribute as a windfall to the overall supply of housing in the Borough. However, there is nothing in the evidence to indicate that the Council is unable to demonstrate a five year supply of deliverable housing land. Therefore, I accord this matter little weight.
20. The presumption in favour of sustainable development only exists within paragraph 14 of the Framework¹. There is no other presumption in favour of sustainable development in the Framework either explicit or implicit and no other 'golden thread'. Paragraph 14 of the Framework sets out what the presumption in favour of sustainable development means. It indicates that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate that development should be restricted. In this case the development plan is not absent or silent and relevant policies are not out-of-date. In any event, paragraph 14 of the Framework constrains the presumption in favour of sustainable development where specific policies in the Framework such as those relating to Green Belt indicate that development should be restricted.

Other matters

21. The appellant refers to other planning applications which have been granted planning permission in the area and contends that the Council has been inconsistent in its decision making. However, I have not been supplied with sufficient information to be sure that the circumstances are directly comparable to this case. In any event, paragraph 88 of the Framework makes clear that all development in the Green Belt is subject to stringent national planning policy tests, which I have applied to the appeal proposal.

Conclusion

22. The appeal proposal would be inappropriate development in the Green Belt which would, by definition, be harmful to the Green Belt. It would also cause some harm to the openness of the Green Belt and to one of its purposes. The proposal would cause harm to the character and appearance of the surrounding area and would not be acceptable having regard to its location and its accessibility to services and facilities.
23. The Framework is clear 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.
24. Despite having had regard to all the other considerations put before me, they are not sufficient to outweigh the totality of harm that I have found. In consequence, the very special circumstances needed to justify the development do not exist. Therefore, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Beverley Doward INSPECTOR

¹ Barwood Strategic Land v East Staffordshire BC and SSCLG [2017] EWCA Civ 893