
Appeal Decision

Site visit made on 8 August 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 29th August 2017

Appeal Ref: APP/Z3445/W/17/3175675

Land rear of 39 Hedging Lane, Wilnecote, Tamworth, B77 5EX.

- 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 J Kingslake against the decision of Tamworth Borough Council.
 - The application Ref. 0312/2016, dated 24 July 2016, was refused by notice dated 13 December 2016.
 - The development proposed is residential development of 9 dwellings and associated parking and access.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is in outline format with the details of the access to the site to be considered at this stage. All other detailed matters are reserved for subsequent consideration although a submitted layout plan illustrates a potential layout.

Main Issues

3. The main issues are:
 - Whether the proposal accords with the strategy in the development plan;
 - Whether the Council can demonstrate a five year supply of new housing sites;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of development on the habitats of protected species;
 - Whether any harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other factors.

Reasons

Background

4. The appeal site comprises an area of open land which lies to the rear of a frontage of semi-detached houses and their long rear gardens. The access to the land is obtained via a narrow track situated between the frontage

properties and an adjoining residential terrace and this track also provides access at the moment to a block of garages. The track is also part of a public footpath. The appeal site itself is largely overgrown with vegetation and occasional fruit trees. It is proposed in outline to construct 9 houses and the illustrative layout shows these in attached pairs grouped around a courtyard parking area.

Planning Policy and accord with the development plan

5. The development plan includes the Council's Tamworth Borough Local Plan 2006-2031 adopted in February 2016. The appeal site is designated as Green Belt where policy EN2 applies and within this there is a clear presumption against 'inappropriate development' which would include the built development scheme of housing proposed. Further the proposal would conflict with Local Plan policies SS1 and SS2 which are designed to ensure that future development needs are met in a sustainable manner in accordance with a strategy which addresses specific environmental, social and economic issues. The proposal therefore does not accord with the strategy put forward in the recently adopted development plan.

Whether a housing land supply is demonstrated

6. Paragraph 47 of the National Planning Policy Framework (the Framework) indicates that Councils should be able to demonstrate a five years supply of housing sites to meet the objectively assessed housing need. The Council submit that at the time of the decision on the application in December 2016 such a supply could be demonstrated in line with the policies and provisions of the recently adopted Local Plan.
7. However, the appellant's agent refers to a subsequent appeal decision APP/R3705/W/16/3149572 made in early January 2017 following an Inquiry held in November 2016. In this, the Council's claim of demonstrating over 9 years housing supply was found to be unsound based on more recent evidence of need in Tamworth and from elsewhere. That Inspector concluded that a five year supply of housing sites could not be demonstrated at that time and I have no evidence from the Council to dispute these conclusions in terms of the current position. On the evidence put to me I therefore find that paragraph 49 of the Framework is engaged in this case.
8. However, the 'tilted balance' put forward in the fourth bullet point of paragraph 14 of the Framework does not apply where specific policies in the Framework indicate that development should be restricted and 'footnote 9' to this paragraph states that this will include, amongst other aspects, land designated as Green Belt.
9. I conclude on this issue that the Council's apparent lack of a housing land supply at the moment does not carry significant weight in terms of establishing that the development plan is out of date as the other policies in the development plan and the Framework indicate that development should be restricted in such an area designated as Green Belt.

Effect on the Green Belt

10. I have found that the development proposed would constitute 'inappropriate development' in the Green Belt which should not be approved except in very special circumstances. Further, in terms of the openness of the Green Belt the

housing proposed would be significantly harmful to this fundamental purpose of designation, notwithstanding the presence of the existing houses and gardens to the north and east of the site. As well as being spatially significant, the loss of openness would also be visually apparent from the public realm of the footpath to the west of the site.

11. I conclude on this issue that the proposal would result in significant harm to the openness of the Green Belt.

Effect on protected species

12. The application is accompanied by an Extended Phase 1 Ecological Survey and Species Scoping assessment and a Great Crested Newt Survey. The Council's Ecology Expert advises that the assessments undertaken are inadequate and do not acknowledge or take into consideration recognised and specific habitats close to the site and concludes that the impacts on species has not been fully assessed.
13. The appellant has not addressed this outstanding issue in the statement submitted and I do not consider that the issue can be properly dealt with by a condition imposed on any permission as the principle of development would have been established. I am therefore not satisfied that it has been demonstrated that the proposed development will not have a harmful effect on the habitats of protected species, contrary to the requirements of Policy EN4

Other matters

14. The appellant's agents suggest that the development could come forward as affordable housing with a Registered Social Landlord as there is an identified significant need within the Borough for 2-3 bedroom social housing. However, there is no formal scheme or legal mechanism before me to secure such housing and a restriction on ownership and tenure would not be appropriate matters for a planning condition. I therefore cannot place much weight on this suggestion.
15. The appellant's agent also suggests that the land was previously developed and that the deletion of the Green Belt designation had been considered in previous drafts of the Local Plan. Nevertheless, I have to consider the development plan as it currently exists and I did not see evidence of the land having been previously developed on site and no other evidence submitted provides clear evidence of this history. In relation to the de-designation of the land as Green Belt, I note that Policy EN2 refers to the possibility of the Council undertaking a Review of the Green Belt if housing and employment needs are not being shown to be met by the end of 2017/18. Given that the planning system is plan-led, the consideration of Green Belt status should be considered through such a comprehensive Review rather than by *ad hoc* decisions on individual proposals.

Whether clearly outweighed

16. Bringing together my conclusions on the main issues, I have found that the site lies in the Green Belt and that the proposed housing development would constitute inappropriate development. The built development would also harm significantly the openness of the Green Belt. These are factors that must be afforded substantial weight as indicated in paragraph 88 of the Framework. The proposal also conflicts with the policies in the development plan that I have

identified. I am also not satisfied that it has been demonstrated that the development will not adversely affect the habitat of protected species.

17. I acknowledge that it appears that the Council cannot demonstrate a five year supply of housing land at the moment but the Framework recognises that where other specific policies indicate that development should be restricted, the weight given to this factor has to be reduced.
18. The proposal would lead to the benefit of increasing housing supply and the limited evidence put forward suggests that there is a clear local need for the general form of housing illustrated on the indicative layout, but in any event it cannot be assumed that a scheme would come forward as affordable housing.
19. Overall, the benefits of the development and the other factors and considerations raised in support do not clearly outweigh the harm attached to being inappropriate development in the Green Belt and the other harm identified. Therefore very special circumstances do not arise.

Conclusions

20. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR