



Appeal Decision

Site visit made on 30 October 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 08 November 2017

Appeal Ref: APP/Q4625/W/17/3182260

Woodside, Warwick Road, Chadwick End, Solihull, B93 0BP

- 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 Whitacre Homes Ltd (Mr Chris Ridley) against the decision of Solihull Metropolitan Borough Council.
 - The application Ref: PL/2017/00749/PPFL dated 23 March 2017, was refused by notice dated 9 June 2017.
 - The development proposed is the erection of 2 No five bedroom two-storey houses.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 No. five bedroom two storey houses at Woodside, Warwick Road, Chadwick End, Solihull, B93 0BP in accordance with the terms of the application, Ref: PL/2017/00749/PPFL dated 23 March 2017, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. During consideration of the application the siting of the proposed dwellings was revised in an attempt to overcome issues in relation to the impact of the development on the neighbouring property. Other revisions were made showing a wider access to improve visibility and vehicle turning space within the site. I have considered the appeals on the basis of the revised plans.

Main Issues

3. I therefore consider the main issues in this case are: Firstly, whether the proposed development amounts to inappropriate development in the Green belt, and secondly; if it 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 needed to justify the development.

Reasons

4. The appeal site forms the northern part of the extensive garden of 'Woodside' and is bounded by a mature hedge along the Warwick Road frontage. It is mostly level lawn and contains a number of ornamental trees and shrubs. It is proposed to erect two five-bedroom detached houses which, as amended, would align approximately with the general building line of properties to the north, though would be well forward of 'Woodside'. Parking and turning areas are shown in front and each house would have an integral double garage.

5. Paragraph 89 of the *National Planning Policy Framework* (the Framework) says the construction of new buildings in the Green Belt should be regarded as inappropriate, although one of the exceptions to this general rule includes limited infilling in villages. Paragraph 87 confirms that inappropriate development is, by definition, harmful to the Green belt and should not be approved except in very special circumstances.
6. Consistent with the Framework, Policy P17 of the *Solihull Local Plan* (LP), adopted December 2013 states inappropriate development in the Green Belt will not be permitted except in very special circumstances. It goes on to state that *'Limited infilling will not be considered to be inappropriate development within the Green Belt settlements, providing this would not have an adverse effect on the character of the settlements. Limited infilling shall be interpreted as the filling of a small gap within an otherwise built-up frontage with not more than two dwellings'*. The supporting text to the policy says that Chadwick End is one of the three settlements where the provisions of LP Policy P17 apply.
7. Firstly, case law¹ has established that it is necessary to consider whether, as a matter of fact on the ground, a site appears to be within a settlement, particularly as here where no settlement boundary has been identified.
8. Chadwick End is a somewhat dispersed village comprising two distinct clusters of housing along the Warwick Road with a wide gap between the two parts. The northern part is clustered around the junction of Warwick Road, Netherwood Lane and Oldwich Lane with some development in depth further south around Wheelers Close and Bakehouse Lane. In my view 'Woodside' and its associated garden could reasonably be said to mark the southern extremity of this part of the village. South of the site along Warwick Road is a distinct wide gap before the southern part of the village is reached around the junction with Rising Lane. As such, I am satisfied 'on the ground' that the appeal site may be considered to lie within the village for the purposes of applying local and national policies on limited infilling in Green Belt settlements.
9. The second question is to whether the proposal would infill a small gap. Housing development north of the appeal site on the east side of Warwick Road is continuous for a considerable distance. The four dwellings immediately to the north of the site (2 x detached houses and 2 x semi-detached houses) are set back from the road behind reasonable sized front gardens. Beyond Bakehouse Lane the dwellings are terraced, and much closer to the highway. The dwelling to the south of the appeal site, 'Woodside' breaks this pattern, being detached and set in a very generous plot. However, the proposed dwellings, which would be closely-spaced, would generally accord with pattern of development established by the four dwellings north of the site, with very similar plot widths to those of 'Orchardside' and the detached property at the corner with Bakehouse Lane.
10. An important material consideration in this case is that in recent years a number of dwellings have been permitted in Chadwick End on the basis of acceptable and appropriate infilling, and these have either been allowed on appeal or approved by the Council. I took the opportunity to view these sites at my site visit.

¹ Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin)

11. A proposal for two dwellings, at 'Wayside', Oldwich Lane was allowed on appeal in 2016². In that instance the Council had argued 'Wayside' was an outlying dwelling beyond a more continuous line of development and that the 'gap' was too large to qualify for infilling. However, the Inspector on that occasion considered that the site lay within the village and that the degree of separation was so minor that it was insufficient to divorce the line of dwellings to the west from the rest of the village.
12. On the issue of plot width the Inspector noted that the average in that line of dwellings was smaller than the gap afforded by the appeal site. However he noted that existing dwellings to the west were mainly semi-detached houses where the plot widths were much narrower than would be the case with a detached house, and concluded that the proposal would amount to limited infilling.
13. In my view valid comparisons can be drawn between the circumstances of the 'Woodside' appeal and the case before me. The plot width (about 28m) is similar, and the relationship of 'Woodside' the development on either side (a continuous line of dwellings followed by a gap before a somewhat separate detached dwelling) is comparable. Whilst each application and appeal is dealt with on its own merits, the Inspector's reasoning with regard to what might reasonably be interpreted as limited infilling in that situation has had some influence on my own reasoning. I also note that the Council has subsequently granted permission for the demolition of 'Wayside' and the erection of three houses on the same site.
14. The second example, for one dwelling at 'Pear Tree Cottage', Netherwood Lane was allowed on appeal in 2005³. Despite the development along the lane being more spacious, with properties set in large gardens, and the gap being rather wider than at either 'Wayside' or 'Woodside,' the Inspector considered that the overall street scene comprised an otherwise continuous form of built development, with the appeal site forming part of a gap in the that the proposed dwelling would fill whilst still preserving the area's spacious and sylvan character.
15. Finally, on land at the Mews House, Chadwick Mews, in 2014 the Council granted permission for two dwellings on a site adjacent to 'Mews House', Chadwick Mews⁴. Although that site fronted a side access and had houses to the rear as well as to either side, the plot widths and size of the gap are again comparable to the appeal before me, and give an indication of what the Council has considered acceptable as limited infilling elsewhere in the village.
16. Bearing on mind the recent history of new housing development in the village and my own judgement of the characteristics and surroundings of the appeal site, I consider the proposal represents the infilling of a small gap in an otherwise built-up frontage. It is sufficient in size to accommodate the proposed development without the two dwellings appearing cramped or at odds with the prevailing character of the area.
17. As such, it would satisfy the qualifying criteria of LP Policy P17 and represent limited infilling in a settlement as permitted under Framework Paragraph 89.

² APP/Q4625/W/16/3143166

³ APP/Q4625/W/17/3168/927

⁴ PL/2015/52231/PPFL

Therefore the proposal does not amount to inappropriate development in the Green Belt, and the issue of very special circumstances does not arise.

18. As the proposal would not be inappropriate development, it follows that the question of the impact of the dwellings on the openness of the Green Belt is not a separate issue to consider. The reason being that any impact on openness is accepted as being implicitly taken into account in the exceptions set out in the Framework. This principle was upheld by the High Court in 2015 and subsequently approved in the Court of Appeal⁵.

Other Matters

19. I have reached a different view from the Inspector who considered a previous appeal on the same⁶, which was dismissed in September 2002. The Inspector on that occasion did not consider the site represented a small gap in an otherwise built-up frontage and referred to the narrowness of the plots further to the north which give the appearance of a terrace with a totally different in character than 'Woodside'. He considered the appeal site and gap afforded by it made an important contribution to the openness of the Green Belt.
20. I accept that the definition of what constitutes limited in filling in the Green Belt has not substantially changed since the date of that appeal, although I am not aware of the wording of Policy BB2 of the Solihull Unitary Development Plan which was in force at the time. Nonetheless, the earlier proposal was for a single detached house which would not relate in the same way to the pattern of development to the north as would the two dwellings now proposed. Furthermore that decision is now 15 years old and predates the Framework and LP Policy P17. Since that time more development has taken place in the village, specifically that on the comparable infill sites that I have been referred to above. I have determined the appeal having regard to changed circumstances and up-to-date local and national policy position.
21. There is no dispute that the local planning authority cannot currently demonstrate a five year supply of deliverable housing sites, and reference has been made by the parties to the housing supply situation in the District and the correct application of paragraphs 49 and 14 of the Framework in the light of recent case law. Whilst I have had regard to these submissions, as I have concluded that the appeal would not be inappropriate development in the Green belt, the issue of housing land supply has not been a decisive factor in my determination of this appeal.
22. I have taken account of representations received from nearby residents and the Parish Council objecting to the proposal. I appreciate that for those residents living close to the site the view from their properties will change as a result of the proposal. However, there is little evidence before me to suggest that the proposal would be harmful in terms of its impact on living conditions in relation to outlook or privacy, as acceptable standards could be achieved. In relation to highway concerns I note that the highway authority is now satisfied that there would be no materially harmful effect on highway safety, and that any outstanding matters could be dealt with by planning condition. Although site drainage issues have been raised I note that the drainage authority has no objections. Some residents are also concerned that a number of trees would be

⁵ Lee Valley Regional Park Authority R, (on the application of) v Epping Forest District Council & Anor (rev1)

⁶ APP/Q4625/A/02/1091088

lost. However, the Council's Landscape Officer says the trees on the site have little amenity value and none score sufficiently to warrant protection through a tree preservation order.

Conclusion

23. I accept that my decision will be disappointing for many local residents, and taken together the number of objections demonstrate a considerable level of local feeling. However, the information before me does not lead me to conclude that these and other concerns, either individually or cumulatively, would be sufficiently harmful to justify dismissing the appeal.
24. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed. I find it would amount to a sustainable form of development that would satisfy the policies of the development plan and the Framework when taken as a whole.

Conditions

25. I have considered the suggested conditions in the light of the advice in the Government's *Planning Practice Guidance*. In addition to the standard 3 year condition for the commencement of development a condition is needed to secure compliance with the approved (revised) plans for the avoidance of doubt and in the interests of proper planning.
26. Conditions to cover the approval of materials, the submission of a detailed landscaping scheme, and to ensure adequate protection of retained trees, are all needed in the interests of the appearance of the area. Full drainage details are required to secure the satisfactory drainage of the site. Full details of the access arrangements for the site are necessary to ensure that the potential for conflict between vehicles and pedestrians is removed, and to demonstrate the satisfactory operation of the access to Warwick Road in accordance with LP Policies P7 and P8.

Nigel Harrison

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: HT_CE 01; HT_CE 02; HT_CE/03A; HT_CE 04A; HT_CE 05B, and HT_CE 06A.
3. No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details / samples.
4. No development shall commence until a scheme to manage the surface water run-off from the site has been submitted to and approved in writing by the Local Planning Authority, and no dwellings shall be occupied until the scheme has been fully implemented in accordance with the approved scheme. The submitted details shall include: 1) Results on infiltration tests carried out in accordance with BRE 365 or similar to determine the suitability of the site for infiltration. If infiltration is deemed to be suitable, the proposed soakaways should also be designed in accordance with BRE 365; and 2) a plan showing the size and location of the proposed soakaways.
5. No development shall commence until there shall have been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the site, shall identify those to be retained, and shall set out measures for their protection throughout the course of development.
6. All the trees and hedges which it is proposed to retain shall be protected by strong fencing, the location and type to be previously approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
7. No development shall commence until full details of the proposed access arrangements for the development including 'swept path' analysis shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details.