
Appeal Decision

Site visit made on 14 November 2017

by Katie McDonald MSc MRTPI

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

Decision date: 13th December 2017

Appeal Ref: APP/K3415/W/17/3179909

Land adjacent to 3 Hints Lane, Hints, Tamworth B78 3DB

- 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 Ronald Gibson against the decision of Lichfield District Council.
 - The application Ref 17/00212/OUT, dated 25 November 2016, was refused by notice dated 6 April 2017.
 - The development proposed is the erection of a detached 4/5 bedroom house plus a detached double garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Based upon the evidence before me, whilst the application form details that outline permission including reserved matters for appearance and landscaping is sought, the plans detail the layout. I also have no details of appearance or landscaping before me. Although I have had regard to the appellant's statement, which details the proposal is for the principle only, the location plan does not detail that it is 'for illustration only'. Therefore, I have assessed the proposal on the basis of the plans submitted, being an outline application including layout as a reserved matter.

Main Issues

3. The site is within the Green Belt and adjacent to protected trees. Accordingly, the main issues are:
 - i) 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;
 - ii) The effect on the openness of the Green Belt;
 - iii) The effect of the protected trees upon the living conditions of future occupants; and,
 - iv) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

4. The proposal is for a 4/5 bedroom dwelling and detached double garage, located on a predominantly grassed, open parcel of land adjacent to 3 Hints Lane. During my site visit I saw a single storey metal shed, a small section of hardstanding and some machinery. I am advised by the Council that the shed is unauthorised and I have not taken it into account in my decision. Consequently, there is very little physical development on the site.
5. The site has a rural character, with open fields to the front and a well established and protected tree line to the rear, where the land drops away to fields beyond.
6. The construction of new buildings within the Green Belt is inappropriate. Exceptions to this are set out in Paragraph 89 of the Framework, one of which is limited infilling in villages. Policy NR2 of the Lichfield District Local Plan Strategy 2008-2029 (February 2015) (LP) sets out that limited infilling within Green Belt villages will be allowed, with appropriate 'infill' boundaries being determined through the Local Plan Allocations document. Hints does not have an 'infill' boundary, and during my site visit, I took account of the surrounding area to make a planning judgment regarding whether or not the site was in a village.
7. Located off Watling Street, access to the site is narrow, with no footpath and is not readily accessible on foot. The majority of built development in the settlement of Hints is to the south west of the site, where the school and church are located. There are some dwellings that line Watling Street opposite to School Lane, but these terminate before meeting Hints Lane, with a significant and wide gap between. Furthermore, although there are some dwellings that sit to either corner of Hints Lane, these are distinctly separate to the dwellings further west. Save for a farm shop, which is most likely to be located in a rural setting outside a village, I saw no identifiable services or community facilities in close proximity to the site. Consequently, the particular circumstances of this site lead me to conclude, as a matter of fact and degree, that it is not within a village.
8. The site is located between two neighbouring dwellings, 3 Hints Lane and Cherry Coppice, and in the simplest terms the proposal would fill a gap. However, the space between the dwellings is substantial. This is in part due to the considerable width of the appeal plot and also because Cherry Coppice is located some distance from its side boundary, and both Cherry Coppice and its garage are set a considerable distance back from Hints Lane. Notwithstanding that the proposal would only be for one dwelling, there would be no continuous built frontage and due to the sheer physical size of the gap between built forms, the proposal would not comprise limited infilling.
9. This being the case, the proposal would be inappropriate development in the Green Belt. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have given substantial weight to the harm arising from the inappropriate nature of development.

Openness of the Green Belt

10. The Framework states that an essential characteristic of Green Belts is their openness. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development.
11. Whilst the proposal is outline with a number of matters reserved, the location plan and description indicates that the proposal would introduce a substantially sized dwelling and detached garage on a relatively undeveloped site. This would clearly have an adverse and detrimental effect upon the openness of the Green Belt by introducing built development onto open land.

Trees

12. The protected trees are tall and given their elevated location, are visible from a wide area beyond the site, contributing to the rural character.
13. The appellant details that the effect of the protected trees upon the prospective occupants would lead to overshadowing during the morning only. Whilst direct sunlight would be available once the sun had moved to the south and west, the effect of the trees upon general shadowing of the garden from daylight would not be avoided. Furthermore, the main elevation that would be affected by the trees is the rear, and although I have no floor plans before me, it would not be unreasonable to assume that living areas would be sited at the rear.
14. Thus, the location of the trees and their proximity to the rear garden and dwelling would restrict the use of the rear garden and rear living areas through overshadowing and dominance; and to my mind would lead to unacceptable living conditions for the future occupants.
15. Given this finding, there would be a high probability that the future occupants would seek to remove the trees to avoid falling branches, provide more light and use of the rear garden and living areas. Although the trees are protected and outside the land ownership of the prospective occupant, and any works would require consent, it would be difficult for the Council to refuse any works to the trees if they were causing safety concerns or reducing the ability of the occupants to enjoy their garden and rear living areas. Thus the potential long term conflict between retained trees and built form would not be designed out.
16. Accordingly, the proposal would fail to protect the living conditions of future occupants, and may lead to pressure to remove the protected trees, that would cause harm to the amenity, character and appearance of the area. Consequently the proposal fails to accord with Policies BE1 and NR4 of the LP, which seek to ensure high quality development that would have a positive impact upon amenity and the protection of trees and woodland.

Other considerations

17. Landscaping is a reserved matter which does not fall to be considered in this appeal and whilst further landscaping could be introduced I am unable to reach any conclusion whether this would reinforce local distinctiveness or have an acceptable effect upon the character of the area. This matter has neutral weight.

18. It is detailed by the appellant that the site has been used for the storage of building materials for many years. Conversely, the Council state that the site has no lawful or authorised use for this, nor does the metal shed have planning permission. As I have not taken into account the metal shed in my assessment, and there was no apparent ongoing use on the site at the time of my visit, the site is open and consequently its previous use is not a matter that weighs either for or against the development and I consider it to be a neutral factor in the overall planning balance.
19. I note the position of the appellant in relation to the National Networks National Policy Statement regarding the rural location of the site and its accessibility. As the proposal is inappropriate development within the Green Belt that has an adverse effect upon openness, this matter does not add any weight in favour of the scheme.
20. Other than an assertion from the appellant I have no evidence before me that the dwelling would be for someone who has been displaced by the HS2 rail project and I give this matter very little weight.
21. I have noted the various appeal decisions and authorities referred to by both the Council and the Appellant but the facts and circumstances of those developments are different from those in this appeal and each appeal has to be determined on its own merits.

Conclusion and the Green Belt balancing exercise

22. The other considerations advanced by the appellant would not outweigh the totality of harm arising from inappropriateness and the harm to the openness of the Green Belt, which attract substantial weight against the development.
23. Consequently, very special circumstances do not exist. The proposal would not represent sustainable development and is contrary to the guidance in the Framework and Policy NR2 of the LP, which seeks to ensure that the Green Belt retains its character and openness.
24. I conclude that the appeal should be dismissed.

Katie McDonald

INSPECTOR