
Appeal Decision

Site visit made on 14 December 2017

by B Bowker Mplan MRTPI

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

Decision date: 8th January 2018

Appeal Ref: APP/R1845/W/17/3179604

**Glebe Fields, Field 2 Glebe Land, Churchill Lane, Churchill, Kidderminster
DY10 3LX**

- 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 Robert Owen against the decision of Wyre Forest District Council.
 - The application Ref 16/0703/FULL, dated 14 November 2016, was refused by notice dated 18 May 2017.
 - The development proposed is described as '*a unique, innovative, sustainable designed single family dwelling of 330m² which exceeds the latest energy performance standards and fits in eloquently within its rural setting. The 4 bedroom house with surrounding restored and enhanced landscape will be wheelchair housing standard compliant to offer the owner and his family quality of life, whilst dealing with a chronic debilitating illness when the equestrian use is changed to residential use*'.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a four bed dwelling (resubmission), at Glebe Fields, Field 2 Glebe Land, Churchill Lane, Churchill, Kidderminster DY10 3LX , in accordance with the terms of the application Ref 16/0703/FULL, dated 14 November 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development is taken from the appeal form and decision notice which both contain a more concise description of the proposed development.
3. Comments were sought from the parties regarding the effect of a recent judgement¹ dated 15 November 2017 on the appeal proposal. The appeal has been determined accordingly.
4. Based on the evidence² before me, the parties agree that the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and Policy SAL.UP1 of the Site Allocations and Policies Local Plan (SAP). Based on all I have seen and read, I have no reason to disagree on the consensus reached on this matter. Accordingly, the main issues are as below.

¹ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)

² With reference to paragraph 6.6 of the Appellant's Appeal Statement and as set out within the Council's Committee Report and Statement of Case

Main Issues

5. The main issues are

- The effect of the proposal on the openness of the Green Belt;
- Whether the location of the site would accord with local and national planning policy, with particular regard to whether future occupants would have reasonable access to shops and services; and,
- If the development is inappropriate, 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 development.

Reasons

Openness

6. The appeal site comprises a stable with associated hardstanding and grassed area. The site and the settlement of Churchill are located within the Green Belt. A Christmas tree farm abuts the southern boundary of the site, with its associated fields to the south west. A field gradually rises in level to the north west of the site and is bounded by a public right of way. The main built form of Churchill is to the east and north east of the site.
7. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open. Taking into account the scale, footprint and mass of the proposed dwelling and likely associated domestic paraphernalia, the proposal would result in a loss of Green Belt openness. At its most noticeable, this loss of openness would be seen from the immediate adjoining section of Churchill Lane at the site access.
8. Therefore, based on my reasoning above, the proposal would have a harmful impact on Green Belt openness.

Site location

9. Combined, Core Strategy (CS) Policy DS01 and SAP policies SAL.DPL1 and SAL.DPL2 seek to concentrate development into existing settlements and closely control development in the open countryside. One underpinning purpose of these policies is to ensure that the location of development reduces greenhouse gas emissions. Based on the Council's Committee Report, it is the access of future occupants to shops and services which is of particular concern to the Council.
10. The site is located in the open countryside for planning purposes, and as such Policy SAL.DPL2 applies. This policy states that residential development within rural areas will not be permitted unless exceptional circumstances apply. The proposal would not meet any of the exceptional circumstances listed within Policy SA.DPL2.
11. Based on the Council's measurements, the site is located over 1.4km away from services (which include a primary school, post office, general store) and transport links (which includes a railway station) at Blakedown. I agree with the Council that taking into account the distance involved and the absence of continuous footway and street lighting along this route, it is unlikely that future

occupants would be able to access services and facilities at Blakedown on foot or by bicycle. Given the limitations of travel by public transport, on foot and by bicycle, future residents of the site would be likely to rely on the private car to access essential shops and services. Consequently, the additional vehicular journeys associated with the proposal would result in an increase in greenhouse gas emissions.

12. Future occupants would have a level of access to shops and services similar to neighbouring occupants. However this factor would not reduce or remove the harm identified above. Nor would the appellant's dependency³ on private vehicular means of transport remove or reduce this harm.
13. The Council's decision notice refers to Paragraph 55 of the Framework which states that local planning authorities should avoid new isolated homes in the countryside. Of relevance, the above noted court judgement sets out that 'isolated' should be given its ordinary objective meaning of "far away from other places, buildings or people; remote" with reference to the Oxford Concise English Dictionary. The judgement also set out that paragraph 55 cannot be read as a policy against development in settlements without facilities and services. Consequently the proposal would not comprise an isolated new home in the light of paragraph 55 of the Framework. Nonetheless, for the reasons given above, the proposal would remain contrary to the noted development plan policies.
14. Therefore the location of the site would not accord with local and national planning policy, with particular regard to whether future occupants would have reasonable access to shops and services. Consequently the proposal would not meet the requirements of SAP Policies SAL.DLP1 and SAL.DLP2, Core Strategy (CS) Policy DS01, and paragraph 7 and 17 of the Framework. Combined, these policies seek to ensure development is located in sustainable locations to make the fullest use of public transport, walking and cycling and to support the transition to a low carbon economy and reduce greenhouse gas emissions.

Other considerations

15. The proposal comprises a permanent new dwelling and would be inappropriate development, which by definition is harmful to the Green Belt. In addition, there are adverse impacts on openness and the Green Belt purpose of safeguarding the countryside from encroachment. The Framework is clear that substantial weight should be given to Green Belt harm and that very special circumstances will not exist unless this harm and any other harm are clearly outweighed by other considerations.
16. The Council refer to a Ministerial Statement⁴ which states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. Whilst the Ministerial Statement does not prevent personal circumstances from comprising very special circumstances capable of clearly outweighing Green Belt harm, it highlights the high level of protection afforded to the Green Belt. The Council also refer to an appeal⁵ for a wooden chalet dwelling at the site dismissed in 2007. The Council highlight

³ The personal circumstances of the appellant are matters that I will return to in my consideration of whether very special circumstances have been demonstrated.

⁴ Dated 17 December 2015, entitled '*Green Belt protection and intentional unauthorised development*'

⁵ Council Ref 07/0258/FULL

that the appeal was dismissed on the grounds of inappropriate development and harm to Green Belt openness. Similarly, the appeal before me is inappropriate development and harmful to Green Belt openness.

17. A number of considerations are put forward in support of the proposal, which principally relate to the personal medical circumstances of the appellant.
18. The appeal is supported by NHS documentation which set out that the appellant has a progressive, terminal, life limiting and rare form medical condition. The documentation also confirms that the medical condition has had an impact on the appellant and his family, alongside setting out the medical equipment and property adaptations necessary to meet needs of the appellant. The documentation sets out that a re-diagnosis of the condition could result in a shortened life span and that 24 hour care could be needed as the condition progresses. The documentation also states that it is very important that the appellant can continue his crucial role in family life and as such, having access to his entire home environment is fundamental. The supporting documentation states that the absence of this access would have a severe detrimental impact on the appellant's quality of life and that of his family.
19. The Council do not dispute the personal medical circumstances of the appellant. However the Council dispute the need of the appellant to live in close proximity of their existing dwelling. In my view, the requirement to live within an area local to the appellant's existing dwelling has been sufficiently justified, with particular reference to the supporting role family and friends would have for the appellant and his family. The Council accept there is a limited range of available properties⁶ in Churchill, but identify three bungalows for sale within one mile of Churchill. However as set out by the appellant, the bungalows identified would require extensions and adaptations, one of which would be located within a different development plan area where a favourable stance to a planning application is not guaranteed. Coupled with the submitted evidence of property searches taken to date, I am satisfied that the appellant has taken satisfactory steps in trying to secure a suitable and alternative property in the local area.
20. The Council state⁷ that the weight afforded to the medical circumstances of the appellant is tempered by the absence of clear evidence to demonstrate that it is not feasible or possible to adapt, extend or replace the appellant's existing property to meet his existing and future needs. A Future Access, Inclusive Design and Wheelchair Housing Design Assessment Report (FAR) has been submitted to assess the suitability of the appellant's existing property. The FAR focusses on the suitability of the existing property in the context of the potential wheelchair reliance⁸ of the appellant, alongside assessing whether the property could meet future needs associated with the medical condition.
21. During my visit to the appellant's existing property, I saw that the first floor corridor was narrow, as were doorways to the respective rooms which were sited close together. As set out in the FAR, and based on my site visit observations, the change in level at first floor would prevent a wheelchair from accessing a number of bedrooms and a bathroom. The FAR sets out that the dimensions at first floor would prevent the installation of a Building Regulation

⁶ At paragraph 4.48 of the Council's Committee Report

⁷ At paragraphs 4.69 – 4.70 of the Council's Committee Report

⁸ In the context of part M of the Building Regulations and the Wheelchair Housing Design Guide

- compliant ramp to address this change in level. In this respect, I note that the Council agree that based on the current property layout and configuration, future accessibility at the property would be restricted.
22. Based on my site visit observations and with no substantive evidence to the contrary, I have no reason to disagree with the conclusions of the FAR. In my view, the FAR demonstrates that in total, a significant amount of alteration would be required to adapt the property. Moreover, the alterations required would not provide the appellant full access to his family, nor would it secure facilities for 24 hour care if required in the future.
23. The Council state that they would be amenable to extensions at the property. However, I note that the property has already been subject to extensions and is located within the Green Belt and a Conservation Area. I acknowledge that the Council's Conservation Officer considers that the historic architectural value of the property has been subsumed by extensions at the site. That said, in the Council's view, any extension required is likely to be functional in appearance, to the possible detriment of the design and appearance of the host dwelling. This reinforces my view that the existing property would not be suitable to meet the appellant's medical requirements. Furthermore, the Council acknowledge that extensions at the appeal property are only likely to allow access to one or two first floor rooms. In this context and based on the supporting medical documentation, in my view it would not be acceptable to prevent the appellant from having full access to his family.
24. I share the Council's concern regarding the appraisal work undertaken to establish the feasibility of a proposed replacement dwelling. I also acknowledge that it is not uncommon for an applicant to obtain alternative accommodation during construction works. However, in the context of the appellant's medical condition and the absence of any nearby suitable accommodation, temporary living arrangements elsewhere during the construction period would be particularly disruptive to the appellant and his family.
25. Taking the above into account, it is clear that a compelling case has been made to establish that the existing dwelling could not be altered, extended or replaced to meet the medical requirements of the appellant. Consequently I afford considerable weight to the exceptional medical circumstances of the appellant and his need for the proposed dwelling.
26. Based on the evidence before me, the proposal would not meet the relevant tests at paragraph 55 of the Framework, in relation to the exceptional quality or innovative nature of design of the dwelling. This aside, the proposal would represent a high standard of design. In addition, the Council acknowledge that the proposal would enhance views of the Conservation Area and have a slight enhancement to a nearby Scheduled Ancient Monument. Furthermore, the Council state that subject to the proposed landscape enhancements, the proposal would have a small to medium positive effect on landscape character and visual amenity. These matters combined attract some weight in favour of the proposal.
27. The proposal would make a modest contribution to housing supply and the local economy through increasing local expenditure and by generating construction employment. These factors attract moderate weight in favour of the proposal. Whilst the Council raise no concern in relation to highway safety

or ecology matters, an absence of harm in these respects can only be considered as neutral factors in the planning balance.

28. With reference to my findings in the second main issue above, future occupants would not have reasonable access to shops and services. The proposal would also be contrary to Policies CB17 and CB18 of the Churchill and Blakedown Neighbourhood Plan, which require residential development to comprise small scale affordable and market housing to meet local needs, with a preference for 2 or 3 bedroom properties. Combined, these factors attract some weight against the proposal.
29. However, in this case, the substantial weight given to the harm arising from inappropriate development and its effect on Green Belt openness, and the weight afforded to the access of future occupants to shops and services, and to the conflict with NP policies are clearly outweighed by the considerable weight afforded to the medical circumstances of the appellant and the weight afforded to the benefits cited in association with the development. This amounts to the very special circumstances necessary to justify the proposal.

Other matters

30. Concern has been raised in relation to the effect of the proposal on the Churchill Conservation Area. However, based on the comments of the Council's Conservation Officer and all I have seen and read, I am satisfied no harm would occur in this respect.

Conditions

31. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording in the interests of precision and clarity in order to comply with the National Planning Policy Framework, advice given in the Planning Practice Guidance and based on comments submitted by the appellant.
32. I have imposed a condition specifying the relevant drawings as this provides certainty. Conditions 3, 9 and 10 are necessary in the interests of the character and appearance of the surrounding area. Conditions 4, 5 and 6 are necessary in the interests of highway safety. Condition 8 is necessary to preserve wildlife interests, although the necessity has not been demonstrated to require post development monitoring arrangements. Condition 7 is necessary to ensure that the site is adequately drained.

Conclusion

33. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed subject to the attached schedule of conditions.

B Bowker

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: Site Location Plan 103-PL-101, Section Drawings 103-S-102, Site Landscape Plan 103-PL-101, Proposed External Lighting Layout 103-P-110, Proposed Floor Plans 103-P-003, Proposed Elevations 103-E-001, Site Sections 103-S-101, 1-3-P-004, Topographical Survey Drawings Ref Nos 957/1, 957/2 and 103-P-103.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Before any works hereby approved are commenced, visibility splays shall be provided from a point 0.6m above ground level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway (measured perpendicularly), for a distance of 43 metres in each direction along the nearside edge of the adjoining carriage way. Nothing shall be planted, erected and/or allowed to grow in the triangular area of land so formed which would obstruct the visibility described above.
- 5) Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge, and shall be made to open inwards only.
- 6) Before any other works hereby approved are commenced, the construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority.
- 7) No development shall take place until a site drainage strategy for the proposed development has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include details of surface water drainage measures, including for hardstanding areas, and shall confirm with the non-statutory technical standards for SUDS (Defra 2015) and the principles set out in the submitted Sustainable Urban Drainage System Design Strategy. There shall be no increase in runoff from the site compared to the pre-development situation up to the 1 in 100 year event plus an allowance for climate change. The development shall be implemented in accordance with the approved strategy and thereafter maintained.
- 8) No development shall take place until details of the number, design, and location of bird nesting boxes/bat boxes/bricks/tubes have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.
- 9) No development shall take place until details of finished site and ground floor levels in relation to the existing site levels, adjoining land and buildings have been submitted to and approved in writing by the local planning authority. The details shall include the proposed grading and mounding of land areas, cross sections through the site and relationship

with the adjoining landform and buildings. The development shall be implemented in accordance with the approved details.

- 10) The dwelling hereby permitted shall not be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The scheme shall include proposed means of enclosure, hard surfacing materials, and where proposed, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 2 years from the from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.