The Planning Inspectorate

Appeal Decision

Site visit made on 7 January 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 19 February 2020

Appeal Ref: APP/T3725/W/19/3237179
12 Old Milverton Road, Old Milverton, Leamington Spa CV32 6SA

- 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 Michael Murphy against the decision of Warwick District Council.
- The application Ref W/19/0329, dated 28 February 2019, was refused by notice dated 26 April 2019.
- The development proposed is the erection of a 3 bedroom 2 storey single dwelling comprising garage and associated external works.

Decision

1. The appeal is dismissed.

Procedural Matter and Main Issues

2. The appellant, in support of the appeal, provided a drainage strategy. The Council in their evidence confirm this is acceptable and the third reason for refusal falls away. Therefore, the remaining main issues are:

    - whether the development would be inappropriate development in the Green Belt;
    - the effect of the proposal on the openness of the Green Belt;
    - the effect of the proposed development on the character and appearance of the area; and
    - if the development is inappropriate within the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

3. The National Planning Policy Framework 2019 (the Framework) sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. Paragraph 143 states that inappropriate development is, by

definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4. The exception which is set out at paragraph 145(e) of the Framework, is limited infilling in villages. There is no definition in the Framework of limited infilling, but Policy H11 of the Warwick District Local Plan, 2011-2029, adopted September 2017 (LP) permits limited village infill housing in the Green Belt where it satisfies three criteria, which I examine below.

5. The appeal site consists of a parcel of land and is within Old Milverton, which is identified within policy as a limited infill village. It is separated from No.12 Old Milverton Road and enclosed by fencing and at the time of my visit the site was mainly overgrown with vegetation. It appears to be served by an existing access from the road with a wooden gate and a vehicle was parked within the site.

6. The proposed development would be for a self-build two storey detached three-bedroom dwelling with a single storey detached garage with alterations to the existing access. It would therefore fall within the principal location definition of the policy, being within a limited infill village and it would satisfy the criterion of Policy H11(a) in regard to the number of dwellings.

7. Looking now at the second criterion of Policy H11(b), the appeal site is a substantially wide plot particularly towards the front facing Old Milverton Road. Although it sits between existing residential development the gaps within the immediate vicinity are mainly characterised by much narrower plots for residential development, of which, emphasises the overall size of the gap at the appeal site itself and therefore is not comparative to being 'small'. I acknowledge the appellant's comments on plot size, but this mainly refers to the 'wider area' and includes other different villages of which the site does not form part.

8. The residential development which runs along Old Milverton Road adjacent to the appeal site, consists of seven dwellings. These represent a cluster of properties, but each are set back considerably from the road frontage itself. There is no consistent building line to those properties and the spacing between each property changes considerably due to their layout, scale and position within each plot, this essentially interrupts the built-up frontage. As such, I disagree with the appellant's assessment that the houses in the row line up following the curve of the street or that this part of Old Milverton has the most linear and regular development.

9. Furthermore, given that the properties in the immediate street scene have staggered frontages and are set back from the highway, the layout and position of the proposed development would be at odds with the frontages and would appear visually disconnected from those properties at No.10 and No.13 Old Milverton Road.

10. The third criteria of Policy H11(c) relates to whether the loss of the site for the proposed development would have a harmful impact on the character and distinctiveness of the area. The appeal site is of a rural nature, and the current appearance of the site creates a spacious setting to the cluster of dwellings which positively contributes to the area. The proposed development would significantly reduce the gap between those properties along the street scene,

thus creating a more suburban form of development harming the predominantly rural and open nature of the character of the area.

11. I acknowledge that the previous appeal decision[1] for the appeal site was some time ago and that the policy context has changed. However, it clearly still has comparisons with the scheme before me including that the street scene has relatively remained the same. Therefore, I have no reason to disagree with the Inspector's overall conclusion, albeit different descriptive wording. The Inspector in that decision stated that "*The appeal site is not within a continuous built-up frontage and therefore does not, as you suggest for a classic infill site".*

12. For the reasons given above, the proposal does not satisfy the criteria Policy H11(b) and H11(c) of the LP, 2019. Furthermore, it does not meet any exception in that of the Framework, with reference to paragraph 145(e), as it would not form limited infilling in villages.

13. As the appeal scheme would not meet any of the exceptions in paragraph 145 of the Framework, it would form inappropriate development in the Green Belt.

Openness

14. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual element.

15. The appeal site is situated between houses at No.12 and No.13 Old Milverton Road and comprises of a parcel of land which is not occupied by any built form. The erection of a sizeable two storey detached dwelling and detached garage would therefore have an adverse impact on openness. Whilst the site is clearly visible from public views along the street scene, given the proposal is for built form, it would be clearly discernible in those views.

16. For the above reasons, the proposed development would harm the openness of the Green Belt in both visual and spatial terms. The scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

Character and Appearance

17. Policy BE1 of the LP only permits development that positively contributes to the character and quality of the environment through good layout and design and development respects its surroundings in terms of scale, height, form and massing and that it does not detract from the character of the local area. Policy NE4 of the LP only permits development that positively contributes to landscape character.

18. Whilst the appeal site is located within a cluster of residential properties these are modest in size and I acknowledge there are variations, however the proposed dwelling would have a substantially larger footprint than those, particularly to the north of the site. Its excessive width would fill the majority of the site and the cumulative impact of both a large detached dwelling and

[1] T/APP/T3725/A/89/123654/P8

detached garage would represent overdevelopment within the site, reducing the characteristic gap and openness of the site to the detriment of the street scene.

19. Furthermore, it would result in a development being of a cramped and incongruous form, particularly as it would be positioned near to the side boundaries filling the whole of the plot width. This would be in contrast to other properties in the street scene which have space around them and do not fill the entire plot width. The excessive width combined with the extensive rear projection at two storey height would create large gables that would appear dominant and alien when viewed from along Old Milverton Road. Despite the proposed materials being acceptable, it would not harmonise with or fit with the rhythm of the nearby Victorian properties or enhance the existing settlement. Moreover, it would add a suburban appearance which would be at odds with the rural context of the immediate site and its surroundings detracting from the character of the area.

20. For the reasons given above, I conclude that the proposed development would cause harm to the character and appearance of the area. It would be contrary to Policy BE1 and Policy NE4 of the LP, 2017. Which together, amongst other things requires new development to positively contribute to landscape character, and that the layout and design of new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design.

Other Considerations

21. The appellant contends that the provision of a self-build dwelling is a positive benefit in favour of the scheme. The Government within Planning Policy Guidance (PPG) and Policy H15 of the LP support such schemes to increase this type of development and places a legal duty on local planning authorities to enable such development. The definition of 'self-build and custom-build housing' is set out in the Framework[2], and is based on the legal definitions contained in section 1(A1) and (A2) within the Self-build and Custom Housebuilding Act 2015 (as amended).

22. In the Council's progress report[3] in 2018 it identifies that the demand continues to grow for self-build/custom homes, and the Authority has met its legal duty to provide adequate suitable permissions. Albeit, this has been identified for sites with 10 or less dwellings it also demonstrates the type of development being sought, including self-build one off homes and that demand has been met in base periods 1 and 2 with base period 3, showing a shortfall but has therefore been rolled into base period 4. As set out in the PPG[4] an Authority has 3 years to demonstrate that sufficient suitable permissions have been granted to meet a base period's demand.

23. Furthermore, Policy H15 only allows custom and self-build housing where it is suitable, sustainable locations including the criteria (e) appropriate locations within infill villages and is subject to compliance with all other relevant policy requirements in the local plan, national policy including the Green Belt. There is no evidence before me to suggest that the proposal would comply with the

[2] Annex 2 of the Framework refers to the definition of a 'self-build and custom-build housing'.
[3] Warwick District Council: Custom & Self Build Progress Report 2018
[4] Paragraph: 023 Reference ID: 57-023-201760728: Revision date: 28 07 2017

relevant legal definitions of self-building housing, or that it would meet a currently identified Council need and the criterion set out in Policy H15. As such, I give this consideration no weight.

24. Notwithstanding the above, the proposed development would contribute to the supply of housing by providing one market dwelling in a rural area. However, the Council advises that it can demonstrate a 5-year HLS and, whilst that should not be treated as a cap, one house would be a relatively small contribution. Therefore, I give it limited weight.

25. Some economic benefits would arise from, for example, the purchase of building materials during the construction period. Future occupiers would also contribute to the local economy and towards the viability of local services. However, again given the modest scale of the development such benefits would be limited.

26. I understand other developments have been granted by the Council in nearby areas. I have been provided with limited details of them, although there may be some similarities with the appeal scheme. The appellant suggests that the Council have been inconsistent and made inaccurate assertions, but these do not affect the precise circumstances of the appeal scheme. I have also had regard to the appeal decisions which have been brought to my attention, particularly the Woodville appeal decision[5], but the individual circumstances of that case differ from the proposals before me, including that it was not within the Green Belt, and was for 30 dwellings, unlike the one residential unit before me. In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.

27. I note that local residents and the Parish Council have expressed additional concerns about the proposed development, including highway safety, ecology, living conditions, previous uses of the site, materials, design and landscaping. However, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those concerns. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.

28. I have considered the arguments that the grant of planning permission would set a precedent for other similar developments. However, no directly similar/comparable sites within the infill village of Old Milverton to which this might apply were put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature is not justified in this case. As such, this is not a consideration that outweighs the harm I have identified caused by the proposed development.

Planning Balance and Conclusion

29. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness, which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.

30. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to

[5] APP/G2435/W/18/3214451

the Green Belt and the other harm I have identified including the harm to the character and appearance of the area. Consequently, the very special circumstances necessary to justify the development do not exist.

31. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.

32. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR