



Appeal Decision

Site visit made on 13 May 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 June 2020

Appeal Ref: APP/R1038/W/20/3244693

Land North of Main Road, Main Road, Troway, Marsh Lane S21 5RR

- 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 A Rowland against the decision of North East Derbyshire District Council.
 - The application Ref 19/00525/FL, dated 15 May 2019, was refused by notice dated 16 July 2019.
 - The development proposed is the erection of single detached dwelling on infill plot.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description in the application form and decision notice differ slightly. I have used the description in the application form in the banner heading above which accurately describes the proposal.

Main Issues

3. The main issues are:
 - 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;
 - The effect on the openness of the Green Belt;
 - Whether the proposal would preserve or enhance the character and appearance of the Moss Valley Conservation Area;
 - The effect of the proposed access arrangement on highway safety; and
 - 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 necessary to justify the development.

Reasons

Inappropriate Development

4. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development. However, it lists certain forms of development which are not regarded as inappropriate. This includes,

- amongst other things, limited infilling in villages (145 (e)) and the redevelopment of previously developed land (PDL) subject to criteria (145 (g)).
5. Policy GS2 of the North East Derbyshire Local Plan (adopted 2005) (LP) also contains a list of development not regarded as inappropriate. However, the list is not entirely consistent with the Framework as it does not allow for limited infilling in villages. As such, the weight I afford it is limited.
 6. The appellant has referred generally to other examples of residential infilling within the Green Belt, although no specific cases have been referred to. The Framework does not give a definition of what constitutes a village and I have been provided with no evidence of any local definition within the LP.
 7. There are only a small number of other houses at this location and little in the way of day to day services and facilities. There are fields to the rear and opposite the appeal site and either side of the cluster of houses. The road passing the appeal site is generally bordered by hedges or low stone walls and has the character of a country lane. These factors give the immediate area a greater affinity with the countryside than a village. As such, even though the proposal would infill a gap between well-established residential properties, I do not consider that the appeal site is within a village.
 8. I note the claim that the appeal site historically accommodated a dwelling. However, I have no substantive evidence of this and from my observations the appeal site appears to simply form part of the wider field. The definition of PDL within the Framework excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. As such, the appeal site does not fall within the definition of PDL.
 9. I therefore find that the proposed development would comprise inappropriate development in the Green Belt. It would therefore be at odds with paragraph 145 of the Framework in this regard. Although I afford limited weight to it, it would also be at odds with Policy GS2 of the LP.

Openness

10. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. I note that the position of the proposed dwelling has sought to minimise the impact on openness. However, the dwelling would still result in built development where there is presently none. Both spatially and visually, the dwelling's footprint, its bulk and the accompanying domestic accoutrements would result in a significant loss of openness, contrary to the relevant Green Belt guidance within the Framework.

Moss Valley Conservation Area

11. The appeal site lies within the Moss Valley Conservation Area (CA). In determining this appeal, I have a duty to pay special attention to the desirability of preserving or enhancing its character or appearance. The CA covers a large area and it appears to me to have a spacious, rural character with frequent long views to the undulating landscape. Residential built form in this part of the CA appears sporadic with frequent large gaps and fields between houses contributing to its rural character.

12. The appeal site is positioned in a prominent location near a bend in the road. When travelling north along the highway toward the site, the gap between the houses allows attractive open views toward the wider undulating landscape. As such, the appeal site makes a positive contribution to the character of the CA.
13. As outlined previously I have no evidence of any historical dwelling that may have existed in this location. I note that the design, position and scale of the proposed dwelling has sought to be compatible with the properties either side of it. However, the proposal would result in a continuous run of houses, eroding the open views through the appeal site and the more sporadic form of development that characterises this part of the CA. Although views of the site are generally limited to the road and from private land, the proposal would, nonetheless, result in an erosion of the rural character and quality of the CA.
14. As such, the proposal would be an undesirable incremental change that would harm the character and appearance of the CA. The harm would be localised and, as such, would be less than substantial in the context of paragraph 196 of the Framework. In accordance with paragraph 196 I must balance that less than substantial harm against the public benefits of the proposal.
15. Given that 1 dwelling is proposed, the associated social and economic benefits to the area would be limited. I have come to this conclusion having regard to the importance that the government places on boosting the supply of housing and making effective use of land. In contrast, giving considerable weight to paying special attention to the desirability of preserving or enhancing the character or appearance of the CA means that despite finding the harm to be less than substantial, the presumption against granting planning permission remains strong. It can be outweighed by material considerations if powerful enough to do so but in this instance, none are sufficient to outweigh the less than substantial harm that I have identified.
16. Accordingly, the proposal would conflict with the requirements of the Framework and Policy BE11 of the LP. Policy BE11 says, amongst other things, that proposals for development within or adjacent to a CA should preserve or enhance the character of the CA.

Highway Safety

17. The access would be positioned close to a junction and a sharp bend in the highway. The highway, as it passes the appeal site, is subject to a 60-mph speed limit. Visibility at the location of the proposed entrance appeared to be restricted by the adjacent building, the sharp bend in the road and vegetation along it. The plan submitted with the application indicates that vehicles would be able to enter and exit in a forward gear. Even so, when exiting the appeal site in either direction views would be restricted.
18. Both parties have referred me to a previous appeal decision for stables within the field with a similar access. Although I have not been provided with the full details of that scheme, I note that the Inspector did not consider the level of activity sufficient to compromise wider highway safety. However, the activity associated with a dwelling would, in my view, be greater than that associated with either stables or the existing use.
19. In the absence of substantive evidence to quantify the average speed of vehicles using the road, extent of visibility achievable and based on my

observations on site, the increase in vehicular movements, at a point with restricted visibility along the road, would result in an unacceptable impact upon highway safety.

20. The proposal would therefore conflict with the requirements of Policy T2 of the LP. This says, that planning permission will only be granted for development which includes access by vehicles provided, amongst other things, that the development would be served by a safe access with appropriate gradient, width, alignment and visibility. The proposal would also be contrary to paragraph 109 of the Framework which seeks to ensure that development does not have an unacceptable impact on road safety.

Other Considerations and the Green Belt Balance

21. I recognise that the proposal would provide an additional family home to the local area boosting the housing supply. In line with my previous findings, the limited social and economic benefits, arising from 1 dwelling even at a time of economic recovery, carry limited weight in favour of the scheme.
22. The appellant suggests that an agricultural building could be built in the field and would have a greater impact on openness, neighbour amenity and on the character and appearance of the CA than the appeal proposal. However, an agricultural building would be a type of structure and use commonly found in the countryside and would not be inappropriate development in the Green Belt. Moreover, although I have been provided with email correspondence, I have no substantive evidence to indicate that there is a significant probability that the agricultural building would be constructed should this appeal be dismissed. This limits the weight that I can attach to it as a fallback position.
23. It is put to me that the proposal would not contravene any of the 5 purposes of including land within the Green Belt. One such purpose is safeguarding the countryside from encroachment. Given I have characterised the site as part of the countryside rather than as part of any village, and considering my findings on openness, the proposal would conflict with this Green Belt purpose.
24. The proposal would be inappropriate development in the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that harm. Moreover, the proposal would result in a loss of openness within the Green Belt, harm to the character and appearance of the CA and an unacceptable impact upon highway safety.
25. As explained above I give only limited weight to the benefits of this dwelling and as such I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
26. Even if the Council's housing supply is less than 5-years the so called 'tilted balance' towards granting permission set out at Paragraph 11d of the Framework would not apply. This is because policies in the Framework that protect areas of particular importance (in this case relating to Green Belt and designated heritage assets) provide a clear reason for refusing the proposal.

Conclusion

27. For the reasons given above the appeal is dismissed.

Robert Walker

INSPECTOR