



Appeal Decision

Site visit made on 14 January 2020

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2020.

Appeal Ref: APP/R3705/W/19/3237408 Birmingham Road, Whitacre Heath B46 2EP

- 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 K C and D A Ingram against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2018/0657, dated 5 November 2018, was refused by notice dated 12 July 2019.
 - The development proposed is outline application (all matters reserved) for up to 4 no. dwellings land east Strawberry Cottage Barn, Birmingham Road, Whitacre Heath, B46 2EP.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address in the banner heading reflects that provided on the original application to the Council. However, the address appears in a number of different forms throughout the appeal documentation. In the interests of clarity, I have adopted the address provided on the Council's decision notice as it provides further detail. The site address for the purposes of this appeal is therefore, Land 40m south east of Strawberry Cottage Barn, Birmingham Road, Whitacre Heath.
3. The appellants names are referenced differently, as both K C and D C and K C and D A Ingram, across the appeal documentation. I have used the names detailed on the original application form.
4. The application was made in outline with all matters reserved to be determined at a later date. I have determined the appeal on this basis and have taken any details shown within the appeal documentation as illustrative.

Policy Background

5. North Warwickshire Borough Council formally submitted the North Warwickshire Local Plan (LP) to the Secretary of State for examination in March 2018. On 12th June 2019 the Inspector issued a letter outlining a number of matters to be addressed and suspended the examination. The 2018 LP has, therefore, not yet been adopted. I have had regard to the emerging LP policies cited as an other material consideration and have afforded them limited weight commensurate with their status. In my view, the emerging policy provisions do not generally appear to differ greatly from those within the adopted North

Warwickshire Local Plan Core Strategy, October 2014 (CS) insofar as they relate to this appeal.

6. The appellants contend that due to the uncertainty around the LP, the Council does not have a five year housing land supply at this time and considers that the policies within the CS are out of date. The Council, however, dispute this and set out their belief that, as of March 2019, they can demonstrate a 6.39 year supply.

Main Issues

7. 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 of the proposal on the openness of the Green Belt and the purposes of the Green Belt.
- 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

8. The appeal site is a roughly triangular shaped field, largely bounded by hedgerows and greenery, which shares an access with the neighbouring property, Strawberry Cottage Barn. Whilst a small number of residential properties are within the vicinity, the site is outside of the development boundary of Whitacre Heath and within the Green Belt.
9. The proposal is for outline permission to construct up to four dwellings.

Whether the proposal would be inappropriate development in the Green Belt

10. Paragraph 143 of the Framework identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 states that new buildings should be regarded as inappropriate in the Green Belt, save for a limited number of exceptions. The exceptions include, under paragraph 145 e), limited infilling in villages.
11. There is no specific definition of 'limited infilling' within the Framework and the CS does not appear to include any definitive information outlining the Council's view. However, policy NW2 of the CS categorises the nearest settlement Whitacre Heath as a category 4 settlement where development will be limited to that identified in the plan and states that in Green Belt settlements development will not be supported outside the current development boundaries. Policy NW3 of the CS sets out the Council's approach to Green Belt in more detail and states that there may be opportunities for limited infill and redevelopment in villages still washed over by the Green Belt designation. Policy NW3 goes on to say that infill boundaries will be brought forward to indicate where infill and limited redevelopment would be permitted. I do not have any substantive evidence which would lead me to conclude that the appeal site would fall within this category.
12. Policies LP2 and LP3 of the emerging LP support this view and the Council state that the emerging LP does not include the site within its potential release of Green Belt Land or within its suitable locations for infill development.

13. I acknowledge that the emerging LP policies carry limited weight and that the appellants consider the CS policies to be out of date. However, as recognised by the appellants, and referenced by caselaw¹, whether or not a proposal represents limited infilling in a village is not simply a policy matter and is a matter of planning judgement based on the everyday meaning of the word. Infilling is normally associated with the completion of an otherwise substantial built up frontage of several buildings or at the very least, the consolidation of a largely built up area.
14. The appeal site is outside of the main built-up area of Whitacre Heath and outside of the settlement boundary. The prevailing character of the immediate area is semi-rural with rural roads featuring ribbons of primarily single depth residential development interspersed with fields and countryside. The appeal site is located towards the end of a row of development on such a road within a loose cluster of residential properties.
15. A number of residential dwellings are situated on the opposite side of the road to the appeal site. Strawberry Cottage Barn and several other spacious, detached, apparently residential, properties are either side of the site. These dwellings create a built-up frontage. Due to the outline nature of the application I have not been provided with details of the proposed layout of the dwellings on site. However, in my view, the site is capable, in principle, of accommodating up to four dwellings in such a way so as to continue the built-up frontage in a sympathetic way. Accordingly, the proposal would fall within the scope of the 'limited infill' aspect of Paragraph 145 e) of the Framework.
16. Whilst other residential properties are nearby, the presiding character around the appeal site remains that of a semi-rural area with a notably different character, appearance and pattern of development to the more densely packed dwellings further down Birmingham Road. The appeal site is visually separated from these dwellings, and from the main settlement, by a mature tree line and a bend in the road. During my site visit I observed that the site is some distance from nearby facilities which are themselves of a limited nature.
17. The character of the urban-grain, visual separation and absence of nearby local services or community amenities, leads me to the conclusion that the location of the infill would not be within a 'village' for the purposes of Paragraph 145 e).
18. For the reasons outlined above, I do not consider that the appeal scheme represents a limited infill development in a village. It cannot therefore be treated as being within the exceptions identified in paragraph 145 of the Framework. Consequently, I conclude that the proposal would not meet criterion (e) of paragraph 145 of the Framework and would therefore be inappropriate development in the Green Belt.
19. The proposal would, therefore, fail to accord with policies NW2 and NW3 of the CS. Amongst other things, these policies set out which form of development is acceptable in the Green Belt.
20. I note the appellants' view that emerging LP policy LP3 suggests that sites where there is built development on at least three sides could be considered permissible limited infilling. However, in my view the site would not fall within this definition and in any event, as noted by the appellant, the policies within the LP have limited weight in the consideration of this appeal.

¹ Julian Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195.

The effect of the proposal on openness and the purposes of the Green Belt

21. The fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open as set out in paragraph 133 of the Framework. The appeal site is an open field surrounded by greenery and, given its relatively substantial size, makes a positive and tangible contribution to the openness of the Green Belt.
22. The proposal would introduce a number of buildings into an area which is currently free from the built form and would significantly erode the undeveloped character and open nature of the site. The site occupies a fairly prominent location and is clearly visible along the road. In my view, the proposal would inevitably lead to a loss of Green Belt openness, both visually and spatially.
23. Furthermore, in extending the residential development beyond the settlement boundary, it would impact on the Green Belt purpose of assisting in safeguarding the countryside from encroachment.

Other considerations

24. As set out above, there is a dispute between the parties regarding whether or not the Council currently has a five year housing land supply. The appellants have provided a copy of a 2018 appeal decision² in support of their case and both parties refer to a second case where the Inspector also found that the Council did not have a five year housing land supply. At the time of the Officer's Report, the Council, indeed, accepted that their supply was around 4.75 years. However, during the course of the appeal the Council amended their position and now consider that as at March 2019 they can demonstrate a 6.39 year supply.
25. The appellants disagree with this figure and hold that the figure is based on a Local Plan with an uncertain future and, as such, cannot be considered realistic. Whilst I have considered all of the evidence before me, the appeals cited as evidence pre-date the Council's updated position statement and the specific circumstances detailed in the 2018 appeal are different to those in this case. The previous appeals do not, therefore, set a precedent which must be followed.
26. In the event I were to determine that the Council did not have a five year housing land supply, a presumption would exist in favour of granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or, specific policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development.
27. In this instance, the proposal is within the Green Belt, and the harm I have identified above provides a clear reason for refusing the appeal. As such, the proposal falls within the Footnote 6 exceptions of paragraph 11 d) of the Framework and the 'tilted balance' would not be engaged in this case in any event on that basis.
28. Nevertheless, the addition of new dwellings which would contribute towards the housing supply in the area and would undoubtedly be a benefit of the scheme. However, if I were to determine that the Council did not have a five year housing land supply, it would seem that, even were the worst case scenario presented by the appellant accepted, the agreed shortfall would be fairly minimal and this,

² APP/R3705/W/16/3149827 Land at Daw Mill Colliery.

combined with the small scale of the proposal, would result in a relatively small benefit to the housing supply in the area.

29. I also acknowledge the economic benefits of engaging local professionals, trades and suppliers and the potential benefits in respect of the local community and economy. These benefits are, however, limited by the small scale of the proposal and must be considered in that context.

Planning Balance

30. The Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework sets out that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
31. I have found that the proposal would not meet criterion (e) of paragraph 145 of the Framework and would therefore be inappropriate development in the Green Belt. The proposal would be outside of the settlement boundary, would cause harm to the openness of the Green Belt and would not support the aim of Green Belt policy to safeguard the countryside from encroachment.
32. I have taken account of the other considerations raised as part of this appeal. Factors in support of the appeal include the boost to the supply of housing and the, limited, economic and social benefits the proposal would be likely to provide.
33. However, for the reasons set out above the cumulative benefits associated with the additional dwellings are not sufficient to clearly outweigh the substantial weight given to the harm to the Green Belt I have outlined above. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
34. Furthermore, the development would be contrary to the adopted development plan and there are no other material considerations to indicate a decision otherwise than in accordance with it.
35. I have noted a number of other concerns raised; including flooding and drainage, the effect of the proposal on highway safety and the effect on the character and appearance of the area. However, as this proposal is going to be dismissed for other reasons and the other concerns expressed do not have a direct bearing on the main issues, it is not necessary for these to be explored further as part of this appeal.

Conclusion

36. For the reasons given above I conclude that the appeal should be dismissed.

L J O'Brien

INSPECTOR