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## Appeal Decision

Site visit made on 19 October 2020 by Darren Ellis MPlan

**Decision by Susan Ashworth BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 December 2020**

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**Appeal Ref: APP/C4615/W/20/3255497**

**17A Smithy Lane, Pensnett, DY5 4UB**

- 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 & Mrs Jones against the decision of Dudley Metropolitan Borough Council.
  - The application Ref P20/0532, dated 21 April 2020, was refused by notice dated 10 June 2020.
  - The development proposed is the construction of a 5 bed detached house.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The appeal site is within the Green Belt and as such the main issues are:
  - whether the proposal would be inappropriate development for the purposes of development plan policy and the National Planning Policy Framework;
  - the effect of the proposal on the openness of the Green Belt;
  - the effect of the proposal on the character and appearance of the area; and
  - if the proposal would be 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 it.

### Reasons for the Recommendation

*Whether the proposal would be inappropriate development*

4. The National Planning Policy Framework (the Framework) establishes that new buildings in the Green Belt are inappropriate except in certain circumstances set out in paragraphs 145 and 146. Two such exceptions are limited infilling in villages (paragraph 145(e)) and limited infilling or redevelopment of previously developed land (paragraph 145(g)). Policy S23 of the Dudley Borough Development Strategy (adopted March 2017) (DBDS)
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states that development in the Green Belt will not be permitted except for circumstances set out in the Framework.

5. The appeal site is a parcel of land in between two dwellings that are part of a cluster of residential and commercial buildings along Smithy Lane. The proposal is for a single dwelling that would be situated between the two dwellings. There is no definition in the Framework that explains what is meant by limited infilling. However, as the scale of the proposal, in terms of the number of units proposed would be limited, and as the site constitutes a gap between existing development the proposal could reasonably be considered to constitute limited infilling. I note that this is the view of both main parties.
6. The Council states that the cluster does not lie within any designated village boundary. However, it has been established in a High Court judgement<sup>1</sup> that policy maps are not determinative in judging the extent of a village and its relevant boundaries. It is therefore necessary to take account of the facts on the ground.
7. The cluster of properties is surrounded by green open space and woodland, creating a clear gap between the appeal site and the nearby built-up areas. As such there is no clear continuum of development. There is a small amount of pavement by the property to the south of the appeal site. However, the pavement does not link up with a nearby built-up area. For these reasons, in my view the cluster does not physically form part of any other nearby settlement. In addition, the cluster is small in scale, being just a handful of buildings, and has no church, shops or services of its own. It is therefore wholly reliant on the surrounding areas for these services. Consequently, the cluster of buildings does not constitute a village in its own right.
8. My attention has been drawn to previous appeals for developments in Central Bedfordshire and Cheshire, although the appeal reference numbers nor any appeal documents have been provided. The appellant states that these appeals were allowed as the proposals were deemed to constitute limited development in a village and therefore were not inappropriate development in the Green Belt. However, while in the case before me the proposal would constitute limited infilling, the appeal site is not within a village. As such, the previous appeal decision is not comparable to the cases before me.
9. Consequently, the proposed development does not constitute infill in a village and therefore does not qualify as an exception under paragraph 145(e) of the Framework.
10. At the time of my site visit the appeal site had been cleared of a dense coverage of trees which the Council state previously existed on the site. No evidence has been submitted to demonstrate that the appeal site has been previously developed, and as such I have no reason to believe that the appeal site constitutes previously developed land. Accordingly, the proposal would therefore not fall under the exception for the limited infilling or the

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<sup>1</sup> Wood v Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195

redevelopment of previously developed land as set out in paragraph 145(g) of the Framework.

11. Given that the proposal would not constitute an exception under paragraphs 145(e), 145(g) or any other exception within paragraphs 145 or 146 of the Framework, the proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

### *Openness*

12. Openness is an essential characteristic of the Green Belt. The Planning Practice Guidance states that openness is capable of having both spatial and visible aspects, so that both the visual impact of the proposal and its volume may be relevant<sup>2</sup>. The proposed dwelling would be a substantial building and would fill in an existing gap between two buildings, which would result in a both a spatial and visual reduction in the openness of the Green Belt. This would cause moderate harm to the openness of the Green Belt in addition to the harm by reason of its inappropriateness.

### *Character and appearance of the area*

13. The appeal site is situated within an Area of High Historic Landscape Value (AHHLV). I note that there are a number of anomalies between the submitted proposed floor plans and proposed elevations drawings. Notwithstanding this, the scale and massing of the proposed dwelling would be substantial and the front dormers would give the appearance of a three-storey dwelling. The two-storey rear element would have an eaves level higher than the eaves level of the main roof, which further adds to the scale of the building and, furthermore, would be disproportionate to the main dwelling. For these reasons, while the cluster of buildings contains dwellings of varying designs, the scale and massing of the proposal would be discordant in the street scene and would be detrimental to the character of the AHHLV. This harm would be exacerbated given the prominent position of the appeal site and the proposed dwelling on the outside of a bend in the road.
14. No details of the finished site levels or landscaping have been submitted, although I acknowledge that the appellant was prepared to discuss such matters with the Council during the original application. However, based on the submitted evidence and what I have seen during my site visit, I am unconvinced that the harm identified above would be mitigated by site levels or landscaping.
15. For these reasons, the proposal would conflict with Policies S6 and L1 of the BDBP and Policy ENV2 of the Black Country Core Strategy (adopted February 2011), which require housing developments to respect and be responsive to the context and character of the surrounding area. The proposal would also fail to satisfy Policy 13 of the DBDP, which requires development proposals to not be detrimental to the character, quality and historic integrity of the landscape.

### *Planning Balance and Conclusion*

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<sup>2</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

16. The proposal is inappropriate development in the Green Belt and, in addition, would cause harm to the openness of the Green Belt. The Framework establishes that substantial weight is afforded to any harm to the Green Belt.
17. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
18. No considerations have been put forward by the appellant although the proposal would provide one additional housing unit to which I attach moderate weight. However, the harm that would be caused to the Green Belt in addition to the harm that would be caused to the character and appearance of the area is not clearly outweighed by the benefits of the scheme. Consequently, the very special circumstances necessary to justify the proposal do not exist. As such, the proposal is contrary to Policy S23 of the DBDS.
19. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

*D Ellis*

APPEAL PLANNING OFFICER

**Inspector's Decision**

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*S Ashworth*

INSPECTOR